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The President

EXECUTIVE ORDER 9697

PROVIDING FOR THE CONTINUED STABILIZATION OF THE NATIONAL ECONOMY DURING THE TRANSITION FROM WAR TO PEACE

By virtue of the authority vested in me by the Constitution and statutes of the United States and particularly by the First War Powers Act of 1941, the Second War Powers Act of 1942, as amended, and the Stabilization Act of 1942, as amended, and for the purpose of maintaining the stabilization of the economy in the present emergency, it is hereby ordered:

1. For the duration of the existing emergency, all departments and agencies of the Government shall, in any matter affecting the stabilization of the economy in which they have discretion in the use of their powers, exercise such discretion in such manner as will best promote the continued stabilization of the economy. It is the policy of the Government, in order so far as possible to prevent price increases, that there be prompt and firm enforcement, during the present emergency, of Government controls over scarce materials and facilities.

2. (a) Notwithstanding the provisions of Executive Order 9599 of August 18, 1945, as amended, and of the regulations issued thereunder, the Price Administrator shall promptly provide for the adjustment of price ceilings in any case in which he finds that an industry is in a position of hardship as a consequence of an approved increase in wages or salaries, as defined herein. An industry shall be considered to be in hardship if, after taking the entire amount of such wage or salary increase into consideration, the Administrator finds that the industry's current ceiling prices will leave it in an overall loss position or in an earnings position requiring adjustment on the basis provided in this section.

(b) The adjustment to be provided shall be such as, in the judgment of the Price Administrator, will be sufficient, for the twelve months following the adjust-

ment, to enable the industry, unless operating at a temporary low volume, to earn an average rate of profit equal as nearly as may be to the rate of return on net worth earned by the industry in the peacetime base period applicable to that industry, and, in the case of commodities which are the subject of special statutory requirements, to a rate of return sufficient to satisfy such requirements. Except to the extent necessary to reflect the abnormal costs and reduced earnings incident to temporary operation at low volume, in no case shall the Administrator provide an adjustment insufficient in amount to prevent loss operation at the time of the adjustment.

(c) The Price Administrator shall develop standards of adjustment consistent with the purposes of this order to be applied in the case of an industry-wide action affecting an industry operating at temporary low volume.

(d) In those cases in which the price regulations provide for the establishment or adjustment of ceiling prices on an individual-firm basis the Price Administrator shall establish such standards of adjustment as in his judgment are administratively workable and consistent with the purposes of this order. He shall establish similar standards to be applied in the case of the establishment or adjustment of rent ceilings.

(e) The Stabilization Administrator shall by regulation or order establish such standards as in his judgment are administratively workable and consistent with the purposes of this order for determining the extent to which wage or salary increases in excess of the standards for approval of such increases prevailing prior to this order may be used, in the case of products or services being furnished under contract with a Federal procurement agency, as a basis for increasing costs to the United States.

3. (a) The National Wage Stabilization Board or other wage or salary stabilization agency having jurisdiction with respect to the wages or salaries involved shall approve any wage or salary increase, or part thereof, which it finds is consistent with the general pattern of wage or salary adjustments which has

(Continued on p. 1693)

CONTENTS

THE PRESIDENT

EXECUTIVE ORDER:	Page
National economy during transition from war to peace, provision for continued stabilization.....	1691

REGULATIONS AND NOTICES

AGRICULTURE DEPARTMENT. <i>See also</i> Farm Credit Administration and Federal Crop Insurance Corporation.	
Meat and meat products and by-products; termination of government possession of plants and facilities.....	1748
CIVILIAN PRODUCTION ADMINISTRATION:	
Hides, skins and leather (M-310).....	1736
Inventories, suppliers' (L-63).....	1735
Priorities system operation; iron castings and grey iron castings, malleable, including cast iron soil pipes, cast iron radiation and railroad car brake shoes; special provisions for assignment of CC ratings to increase production (PR 28, Dir 4).....	1734
Wool civilian items (M-328B, Sch. K).....	1738
CUSTOMS BUREAU:	
Customs warehouses and control of merchandise therein.....	1700
FARM CREDIT ADMINISTRATION:	
National farm loan associations; stock purchase requirement.....	1693
FEDERAL COMMUNICATIONS COMMISSION:	
Hearings:	
Deep South Broadcasting Corp.....	1750
Noe, James A. (WNOE).....	1749
WCLS, Inc. (WJOL).....	1749
FEDERAL CROP INSURANCE CORPORATION:	
Corn crop insurance; 1946 regulations.....	1694
FEDERAL POWER COMMISSION:	
Mid-Continent Gas Transmission Co., hearing.....	1750
FEDERAL TRADE COMMISSION:	
Lakeland Highlands Canning Co., Inc.; hearing.....	1751



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NOTICE

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Book 1: Titles 1-10, including Presidential documents in full text.

Book 2: Titles 11-32.

Book 3: Titles 33-50, including a general index and ancillary tables.

CONTENTS—Continued

HOME OWNERS' LOAN CORPORATION:	Page
Personal property, sale.....	1732
INTERNATIONAL TRADE, OFFICE OF:	
General licenses; general license numbers.....	1733
Individual licenses; pneumatic tires.....	1734
Subsidy payments, refunds.....	1733
INTERSTATE COMMERCE COMMISSION:	
Annual, special or periodical reports; form prescribed for large and medium steam railways.....	1748
Car service:	
Export wheat, corn, meat and other essential foods, preference for.....	1748
Grain in Pacific northwest, box cars to be used.....	1747
Employee, class of employees and subordinate officials to be included within term under Railway Labor Act; stationmaster and assistant stationmasters, Nashville terminals.....	1747
Icing of freight cars at Madison, Wis.....	1751

CONTENTS—Continued

NAVY DEPARTMENT:	Page
Contract Settlement Act, amendment of Joint Termination Regulation; cross reference.....	1745
OFFICE OF PRICE ADMINISTRATION:	
Adjustments and pricing orders:	
Augusta Knitting Corp.....	1753
Berriman Bros., Inc.....	1752
Borg-Warner Corp.....	1753
Catalina Knitting Mills.....	1752
Climatic Rainwear Co., Inc.....	1753
General Motors Corp.....	1756
Lindemann, A. J., and Hover-son Co.....	1755
Mohawk Carpet Mills, Inc.....	1753
Orr Felt and Blanket Co.....	1753
Ricci, Nina, Inc.....	1755
Vassar Co.....	1753
White Sewing Machine Corp.....	1757
Wood, C. D., Electric Co., Inc.....	1751
Apparel, and house furnishings (MPR 580, Am. 9).....	1739
Bituminous coal; adjustments for individual mines:	
District 6 (MPR 120, Order 1592).....	1751
District 11 (MPR 120, Order 1543).....	1752
Machinery, cotton ginning, accessories and repair and replacement parts (RMPPR 136, Order 580).....	1754
Oil cloth (MPR 478, Am. 1 to Order 157).....	1758
Reconversion products (MPR 188, Order 7).....	1756
Regional and district office order; fluid cream in New York City and Nassau, Suffolk, Rockland and Westchester Counties, N. Y.....	1758
SECURITIES AND EXCHANGE COMMISSION:	
Hearings, etc.:.....	
Central National Corp.....	1759
United Corp.....	1759
STATE DEPARTMENT:	
Examinations; adoption of prior regulations and special examinations for members of armed forces.....	1731
Foreign service personnel; appointments of officers and employees.....	1732
TREASURY DEPARTMENT. See also Customs Bureau.	
Film recordation of government securities, checks, warrants, and paper money.....	1733
VETERANS' ADMINISTRATION:	
Adjudication; veterans' claims, Central Office Section; beginning and ending dates of wars.....	1745
WAR ASSETS CORPORATION:	
Airport property, surplus; authority to WAC to dispose: Morris Field, Charlotte, N. C. Orchard Place Airport, Park Ridge, Cook County, Ill.....	1744
WAR DEPARTMENT:	
Supplies and equipment:	
Procurement:	
Contracts.....	1721
Forms.....	1724
Instructions, general.....	1701
Procurement policies and procedures, general.....	1701

CONTENTS—Continued

WAR DEPARTMENT—Continued.	Page
Supplies and equipment—Con.	
Procurement—Continued.	
Purchases:	
Foreign.....	1721
Instructions, miscellaneous.....	1723
Interbranch and interdepartmental.....	1721
Renegotiation and price adjustment.....	1723
Requisitioning and mandatory orders.....	1725
Property disposition:	
Industrial installations, general disposition.....	1728
Personal property:	
Disposition for purposes directly related to prosecution of war.....	1727
General disposition.....	1727
Non-repairable property.....	1727
Surplus property.....	1727
Termination of contracts:	
Contractor inventory.....	1728
General provisions.....	1728
Interim financing.....	1728
Special procedures and reports.....	1729
CODIFICATION GUIDE	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Documents carried in the Cumulative Supplement by uncodified tabulation only are not included within the purview of this list.	
TITLE 3—THE PRESIDENT:	Page
Chapter II—Executive orders:	
9599 ¹	1691
9651 ¹	1691
9685 ²	1748
9697.....	1691
TITLE 6—AGRICULTURAL CREDIT:	
Chapter I—Farm Credit Administration:	
Part 11—National farm loan associations.....	1693
TITLE 7—AGRICULTURE:	
Chapter IV—Production and Marketing Administration (Crop Insurance):	
Part 416—Corn crop insurance regulations.....	1694
TITLE 10—ARMY: WAR DEPARTMENT:	
Chapter VIII—Supplies and equipment:	
Part 801—General instructions.....	1701
Part 802—General procurement policies and procedures.....	1701
Part 803—Contracts.....	1721
Part 805—Foreign purchases.....	1721
Part 806—Interbranch and interdepartmental purchases.....	1721
Part 811—Miscellaneous purchase instructions.....	1723
Part 812—Renegotiation and price adjustment.....	1723
Part 813—Forms of contracts.....	1724
Part 814—Requisitioning and mandatory orders.....	1725
Part 821—General disposition of personal property.....	1727

¹ Executive Order 9697.

² Appears under Agriculture Department in Notices section.

CODIFICATION GUIDE—Continued

TITLE 10—ARMY: WAR DEPARTMENT—Continued.	Page
Chapter VIII—Supplies and equipment—Continued.	
Part 823—Disposition of personal property for purposes directly related to prosecution of war—	1727
Part 824—Disposition of non-repairable personal property—	1727
Part 827—Disposal of surplus personal property—	1727
Part 830—General disposition of industrial installations—	1728
Part 841—General provisions—	1728
Part 843—Interim financing—	1728
Part 844—Contractor inventory—	1728
Part 848—Special procedures and reports—	1729
TITLE 19—CUSTOMS DUTIES:	
Chapter I—Bureau of Customs:	
Part 19—Customs warehouses and control of merchandise therein—	1700
TITLE 22—FOREIGN RELATIONS:	
Chapter I—Department of State:	
Part 98—Examinations; regulations—	1731
Part 101—Foreign service personnel—	1732
TITLE 24—HOUSING CREDIT:	
Chapter IV—Home Owners' Loan Corporation:	
Part 401—General—	1732
TITLE 31—MONEY AND FINANCE:	
TREASURY:	
Chapter IV—Secret Service:	
Part 404—Film recordation of government securities, checks, warrants, and paper money by banking institutions—	1733
TITLE 32—NATIONAL DEFENSE:	
Chapter IX—Civilian Production Administration:	
Part 944—Regulations applicable to operation of priorities system—	1734
Chapter XXIII—War Assets Corporation:	
Part 8316—Surplus airport property (2 documents)—	1743, 1744
TITLE 34—NAVY:	
Chapter I—Department of the Navy:	
Part 25—Contract Settlement Act—	1745
TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF:	
Chapter I—Veterans' Administration:	
Part 4—Adjudication: veterans' claims, Central Office Section—	1745
TITLE 49—TRANSPORTATION AND RAILROADS:	
Chapter I—Interstate Commerce Commission:	
Part 60—Classification of employees and subordinate officials—	1747
Part 120—Annual, special or periodical reports—	1748

been established in the industry or local labor market area, between August 18, 1945, and the effective date of this order, or, where there is no such general pattern, which it finds necessary to eliminate gross inequities as between related industries, plants or job classifications, to correct substandards of living, or to correct disparities between the increase in wage or salary rates in the appropriate unit since January 1941 and the increase in the cost of living between January 1941 and September 1945. The Board or other designated agency shall have authority, with the approval of the Stabilization Administrator, to establish special standards for approval of wage or salary increases, differing from the foregoing general standards, to be applied in particular industries or classes of cases if it finds that such action is necessary to effectuate the purposes of this order.

(b) The Stabilization Administrator may, by regulation, specify classes of wage or salary increases which will in his judgment have no unstabilizing consequences and which may be deemed approved within the meaning of this order without prior consideration by the wage or salary stabilization agencies. Such regulations may make special provision for cases, among others, in which (1) the increase is to be of limited amount, or (2) a small number of employees will be involved, or (3) there will be in all probability no substantial effect upon price or rent ceilings or costs to the United States.

(c) Except as the Stabilization Administrator may by regulation otherwise provide, the making, after the effective date of this order, of any wage or salary increase pursuant to Part IV, section 1, of Executive Order 9599, without the prior approval of the National Wage Stabilization Board or other designated wage or salary stabilization agency having jurisdiction with respect to the wages or salaries involved, shall constitute a waiver of any right of the employer to use such increase, at any time during the continuation of the stabilization laws, as a basis for seeking an increase in price or rent ceilings or, in the case of products or services being furnished under contract with a Federal procurement agency, as a basis for increasing costs to the United States. The Stabilization Administrator shall have authority to provide by regulation that wage or salary increases of a particular class shall be unlawful unless made with the prior approval of the Board or other designated agency, if in his judgment such action is necessary to prevent wage or salary increases inconsistent with the purposes of the stabilization laws.

(d) In accordance with and subject to the provisions of section 2 of this order, any wage or salary increase heretofore lawfully made, or made in accordance with a governmental recommendation in a wage controversy announced prior to the effective date of this order, shall be deemed to have been approved within the meaning of this order, and may be taken into account as a basis for increasing price or rent ceilings or, in the case of products or services being furnished under contract with a Federal procurement

agency, as a basis for increasing costs to the United States.

(e) All arbitration awards, and all recommendations of publicly-appointed fact-finding panels, with respect to wage or salary issues shall conform with the standards of this order and the regulations and directives issued thereunder. No wage or salary increases shall be put into effect in accordance with any such awards or recommendations, hereafter announced, unless and until approved by the appropriate wage or salary stabilization agency, or unless such awards or recommendations are voluntarily accepted by the parties on the basis stated in the first sentence of subsection (c) of this section.

4. The Stabilization Administrator, in the Office of War Mobilization and Reconversion, shall have full authority to issue such orders and directives as may be necessary, in his judgment, to carry out the purposes of this order.

5. Any provision of any prior Executive order in conflict herewith is hereby superseded to the extent of such conflict.

6. This order shall become effective February 14, 1946.

HARRY S. TRUMAN

THE WHITE HOUSE,
February 14, 1946.

[F. R. Doc. 46-2553; Filed, Feb. 15, 1946;
10:04 a. m.]

Regulations

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

PART 11—NATIONAL FARM LOAN ASSOCIATIONS

STOCK PURCHASE REQUIREMENTS

Part 11 of Chapter I, Title 6, Code of Federal Regulations, is hereby amended by amending § 11.172 to read as follows:

§ 11.172 *Stock subscription required.* When an additional loan is made on property which is mortgaged in whole or in part to secure an outstanding bank loan, the Administration approves the retirement, under section 7 of the Federal Farm Loan Act (12 U.S.C. 721), of all stock of the bank held as security for the outstanding loan which is in excess of an amount equal to one share for each \$100, or major fractional part thereof, of the unpaid balance of the outstanding loan plus the additional loan; *Provided*, (1) Such retirement is authorized by the board of directors of the bank, (2) the capital stock of the association through which the outstanding loan was made is not impaired or the only stock outstanding in connection with the outstanding loan is bank stock, and (3) the applicant is entitled to the proceeds of the stock in the association or the bank which was issued in connection with the outstanding loan.

(Sec. 6, 47 Stat. 14, Sec. 7, 39 Stat. 365; 12 U.S.C. 665, 721)

[SEAL]

W. E. RHEA,
Land Bank Commissioner.

[F. R. Doc. 46-2558; Filed, Feb. 15, 1946;
11:09 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Production and Marketing
Administration (Crop Insurance)PART 416—CORN CROP INSURANCE
REGULATIONS

SUBPART—1946

The Federal Crop Insurance Program is part of the general program of the United States Department of Agriculture administered for the benefit of agriculture.

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, as amended, and in order to determine the most practical plan, terms, and conditions of insurance with respect to corn, these regulations are hereby published and prescribed to be in force and effect with respect to a trial insurance program on the 1946 corn crop, until amended or superseded by regulations hereafter made.

MANNER OF OBTAINING INSURANCE

- Sec.
416.51 Availability of corn crop insurance.
416.52 Application for insurance.
416.53 Acceptance of applications by the Corporation.

INSURANCE COVERAGE

- 416.54 Insured corn.
416.55 Insurable and non-insurable farms.
416.56 Determination of insured acreage.
416.57 Insurance period.
416.58 Amount of insurance.
416.59 Causes of loss insured against.
416.60 Causes of loss not insured against.

PREMIUM FOR INSURANCE CONTRACT

- 416.61 Amount of premium.
416.62 Manner of payment of premium.

LOSS

- 416.63 Notice of loss or damage of corn crop.
416.64 Released acreage and released crop.
416.65 Time of loss.
416.66 Proof of loss.
416.67 Amount of loss.

PAYMENT OF INDEMNITY

- 416.68 When indemnity payable.
416.69 Indemnity payment.
416.70 Adjustment in connection with indemnity payments for yield insurance.
416.71 Other insurance.
416.72 Subrogation.
416.73 Creditors.

PAYMENT OF INDEMNITY TO PERSONS OTHER THAN
ORIGINAL INSURED

- 416.74 Indemnities subject to all provisions of insurance contract.
416.75 Collateral assignment of right under insurance contract.
416.76 Payment to transferee.
416.77 Death, incompetence, or disappearance of insured.
416.78 Fiduciaries.
416.79 Determination of person to whom indemnity shall be paid.

REFUNDS OF EXCESS NOTE PAYMENTS

- 416.80 Refunds of excess note payments.
416.81 Assignment or transfer of claims for refunds not permitted.
416.82 Refund in case of death, incompetence, or disappearance.

ESTABLISHMENTS OF AMOUNTS OF INVESTMENT
INSURANCE PER ACRE, AVERAGE YIELDS, AND
PREMIUM RATES

- 416.83 Establishment of amounts of investment insurance per acre.

- Sec.
416.84 Establishment of farm average yields of corn per acre.
416.85 Establishment of premium rates.
416.86 Amount of investment insurance per acre, average yields, and premium rates where farm varies widely in cost of production, productivity, or farming hazards or where tracts of the farm are widely separated.

GENERAL

- 416.87 Meaning of terms.
416.88 Restriction on purchase and sale of corn by the Corporation.
416.89 Records and access to farm.
416.90 Review of determinations of State and county committees.
416.91 Applicant's warranties; voidance for fraud.
416.92 Modification of insurance contract.
416.93 Rounding of fractional units.
416.94 Closing dates for submission of applications.
416.95 Maturity dates for premium notes.

AUTHORITY: § 416.51 to 416.95, inclusive, issued under secs. 506 (e), 507 (c), 508, 509, and 516 (b) of the Federal Crop Insurance Act, as amended; 52 Stat. 73, 52 Stat. 835, 58 Stat. 918; 7 U.S.C. 1506 (e), 1507 (c), 1508, 1509, 1516 (b).

MANNER OF OBTAINING INSURANCE

§ 416.51 *Availability of corn crop insurance.* (a) In accordance with this subpart, corn crop insurance will be offered in 1946 in the following counties:

State:	County
Alabama	Madison.
Georgia	Houston.
Illinois	Montgomery.
	Vermilion.
Indiana	Miami.
Iowa	Buena Vista.
	Marion.
Kansas	Phillips.
Kentucky	Daviess.
Maryland	Kent.
Michigan	Hillsdale.
Minnesota	Redwood.
Missouri	Carroll.
Nebraska	Saunders.
Ohio	Champaign.
Pennsylvania	Chester.
South Dakota	Turner.
Texas	McLennan.
Wisconsin	Sauk.

The Corporation may offer insurance on the basis of (1) not to exceed 75 percent of the investment in the crop, as determined by the Corporation, and (2) not to exceed 75 percent of the average yield of corn for the farm. In any county in which more than one plan of insurance is offered, a producer may insure his interest in the crop under only one such plan.

(b) Corn crop insurance will not be provided in any county unless written applications for such insurance are filed covering at least fifty farms.

§ 416.52 *Application for insurance.* Application for insurance, on a form entitled "Application for Corn Crop Insurance," may be made by any person to cover his interest as landlord, owner-operator, tenant, or sharecropper in a corn crop to be planted for harvest in 1946 on all or part of the acreage on any insurance unit(s) considered for crop insurance purposes to be located in the county in which the application is filed. The insurance unit(s), the number of acres on which the applicant is applying for insurance, and his interest in the corn crop shall be specified on the

application. Applications shall be submitted to the office of the county association on or before the applicable closing date shown in § 416.94 hereof.

§ 416.53 *Acceptance of applications by the Corporation.* (a) Upon acceptance of an application by a duly authorized representative of the Corporation, the insurance contract shall be in force and effect, provided such application is submitted in accordance with the provisions of the application and of this subpart, including any amendments thereto. The applicant's copy of the accepted application shall be mailed to him.

(b) The Corporation reserves the right to reject any application for insurance with respect to any one or more of the insurance units covered by the application, or to limit the insurance on the applicant's interest in any insurance unit covered by the application.

INSURANCE COVERAGE

§ 416.54 *Insured corn.* The corn which will be insured under the contract will be corn planted for harvest as grain in 1946, including only corn which is normally regarded as field corn. The contract will not provide insurance for true type silage corn or thick-planted corn planted for silage or fodder purposes, sweet corn, popcorn, broom corn, corn planted for the development of hybrid seed corn, or any type of corn other than that normally regarded as field corn.

§ 416.55 *Insurable and non-insurable farms.* Any farm or part thereof which is designated on the crop insurance listing sheet as "non-insurable", because of the insurance risk involved, shall not be considered in any manner whatsoever under the insurance contract, except as provided in § 416.67 (c) hereof. The Corporation may determine that a farm or part thereof is non-insurable and so designate it on the listing sheet at any time before the applicable closing date for the filing of applications for insurance. Any farm or part thereof not so designated shall be insurable.

§ 416.56 *Determination of insured acreage.* Insurance shall not attach with respect to any acreage planted to corn which is destroyed or substantially destroyed and which can be replanted before it is too late to replant to corn, as determined by the Corporation, and such acreage is not replanted to corn. The insured acreage with respect to each insurance unit shall be the acreage specified in the application or the acreage planted, as determined by the Corporation, whichever is the lesser. The Corporation reserves the right to limit the acreage to be insured to conform with other programs of the Department of Agriculture.

§ 416.57 *Insurance period.* Insurance with respect to any insured acreage shall attach at the time the corn is planted. Insurance shall cease with respect to any portion of the corn crop upon harvesting, or removal from the insurance unit, whichever occurs first, but in no event shall the insurance remain in effect later than December 31, 1946, unless such

time is extended in writing by the Corporation.

§ 416.58 Amount of insurance. (a) The amount of investment insurance per acre shall be the amount determined by the Corporation pursuant to § 416.83 hereof for the level of insurance shown in the approved application. The amount of investment insurance for each insurance unit under the contract shall be the number of dollars determined by multiplying the insured acreage by the amount of investment insurance per acre, and by the insured interest in the crop. If for parts of an insurance unit different amounts of investment insurance per acre are applicable, the amount of investment insurance shall be computed separately for each part and the total of such computed amounts shall be the amount of investment insurance for the insurance unit.

(b) The amount of yield insurance per acre shall be the insured percentage of the average yield. The amount of yield insurance for each insurance unit under the contract shall be the number of bushels of corn determined by multiplying the insured acreage by the amount of yield insurance per acre, and by the insured interest in the crop. If for parts of an insurance unit different amounts of yield insurance per acre are applicable, the amount of yield insurance shall be computed separately for each part and the total of such computed amounts shall be the amount of yield insurance for the insurance unit.

§ 416.59 Causes of loss insured against. The insurance contract shall cover loss due to unavoidable causes, including drought, flood, hail, wind, frost, winter-kill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board of Directors of the Corporation. Where insurance is written on an irrigated basis, the insurance contract shall also cover loss due to failure of the water supply from natural causes that could not be prevented by the insured, lowering of the water level in pump wells adequate at the beginning of the growing season to the extent that either deepening the well or drilling a new well would be necessary to obtain an adequate supply of water, failure of public power used for pumping or failure of an irrigation district or water company to deliver water where such failure is not within the control of the insured, or the collapse of casing in wells where such collapse could not have been foreseen and prevented by the insured.

§ 416.60 Causes of loss not insured against. The contract shall not cover loss caused by the neglect or malfeasance of the insured or of any person in his household or employment or connected with the farm as tenant, sharecropper, or wage hand, nor shall it cover losses caused by theft, domestic animals, use of defective or unadapted seed, or planting on land of poorer average quality for the production of corn than the average quality of the land considered in establishing the amount of insurance per acre and premium rate for the insurance unit

or part thereof, or planting corn on a portion of the insurance unit where the farming hazards differ materially from the farming hazards for the acreage considered in establishing the amount of insurance per acre and premium rate for such unit or part thereof, or failure properly to prepare the land for planting, or properly to plant, care for, or harvest the insured crop, including any loss due to breakdown of machinery or equipment (except as provided in § 416.59 above), failure to follow established good farming practices, or by following different fertilizer or farming practices than those considered in establishing the amount of insurance per acre and premium rate, or by failure to replant the corn in areas and under circumstances where the Corporation determines it is practicable to replant. In addition, where insurance is written on an irrigated basis, the contract shall not cover losses caused by failure properly to apply irrigation water to corn in proportion to the amount of water available for all irrigated crops, failure of irrigation equipment due to mechanical defects (except as provided in § 416.59 above), failure to provide adequate casing or properly to adjust the pumping equipment in the event of a lowering of the water level in pump wells when such adjustment can be made without deepening the well, or any other such loss not due entirely to unavoidable causes. The contract shall also not cover loss caused by planting a variety of corn which differs materially in yield from the variety considered in establishing the amount of insurance per acre for the insurance unit or planting corn under conditions of immediate hazard, or planting another crop in the growing corn crop. Likewise, the contract shall not cover loss caused by inability to obtain labor, fertilizer, machinery, repairs, or insect poisons.

PREMIUM FOR INSURANCE CONTRACT

§ 416.61 Amount of premium. The premium for each insurance unit under the contract shall be determined by multiplying the insured acreage for the insurance unit by the premium rate per acre (dollars in the case of investment insurance and bushels in the case of yield insurance) and by the insured interest in the crop. If for parts of an insurance unit, different premium rates are applicable, a premium shall be computed separately for each part and the total of such computed amounts shall be the premium for the insurance unit. The premium for the insurance contract shall be the total of the premiums computed for the insured for all insurance units covered by the contract. The premium with respect to any insured acreage shall be regarded as earned when the corn crop on such acreage is planted. The minimum premium payable by the insured with respect to any insurance contract shall be three bushels of corn in the case of yield insurance and \$3.00 in the case of investment insurance.

§ 416.62 Manner of payment of premium. (a) By executing a form entitled "Application for Corn Crop Insurance," the applicant executes a premium note. This note represents a promise to pay to the Corporation, on or before the maturity

date specified in § 418.95 hereof, the total premium for all insurance units covered by the insurance contract. Such note shall bear interest after maturity at the rate of one-half of one percent for each calendar month or fraction thereof, except that no interest shall be charged on any amount paid within two calendar months after maturity.

(b) Payment of the premium note in the case of investment insurance may be made in cash only.

(c) Payment of the premium note in the case of yield insurance may be made in whole or in part before maturity either in corn or cash, or both. After maturity, payment may be made only in cash. In connection with any payment before maturity, there shall be credited on the note the number of whole bushels of corn computed by dividing the payment made (the proceeds of the sale of corn if corn is paid) by the cash equivalent price per bushel for the date of payment. The amount of the note due at maturity shall be the cash equivalent thereof based on the cash equivalent price per bushel applicable for such maturity date.

(d) Any unpaid amount of any premium note (either before or after the date of maturity) may be deducted from any indemnity payable by the Corporation, from the proceeds of any commodity loan to the insured, and from any payment made to the insured under the Soil Conservation and Domestic Allotment Act, as amended, or any other act of Congress or program administered by the United States Department of Agriculture. Where any such deduction is made before the date of maturity in the case of yield insurance, the cash equivalent of the deduction will be based on the cash equivalent price used in computing the indemnity payment or the cash equivalent price determined by the Corporation to be in effect on the day the county committee approves such loan or other payment, whichever is applicable. Such price shall also be used in determining the number of bushels of corn to be credited on such note.

(e) Payments in cash shall be made by means of cash or by check, money order, or bank draft, payable to the order of the Treasurer of the United States. All checks and drafts will be accepted subject to collection, and payments tendered shall not be regarded as paid unless collection is made. When a payment is made in corn, it shall be by means of an instrument acceptable to the Corporation representing salable corn.

LOSS

§ 416.63 Notice of loss or damage of corn crop. Unless otherwise provided by the Corporation, if a loss is probable, notice in writing shall be given the Corporation at the office of the county association immediately after any material damage to the insured crop and before the crop is harvested, removed, or any other use is made of it. Any such notice shall be given in time to allow the Corporation to make appropriate inspection.

§ 416.64 Released acreage and released crop. (a) Any insured acreage on

which the corn crop has been destroyed or substantially destroyed may be released by the Corporation for planting a substitute crop or to be put to another use. The corn crop shall be deemed to have been substantially destroyed if the Corporation determines that it has been so badly damaged that farmers generally in the area, where the farm is located and on whose farms similar damage occurred, would not further care for the crop or harvest any portion thereof. Before any acreage is released, it shall be inspected and an appraisal made by the Corporation of the yield that would be realized if the crop on such acreage remained for harvest. Any such appraisal shall be subject to the minimum set forth in § 416.67 hereof. No insured acreage planted to corn shall be considered as put to another use as long as any corn on such acreage remains for harvest. On any acreage where the corn has been partially destroyed but not released by the Corporation, proper measures shall be taken to protect the crop from further damage. There shall be no abandonment of any crop or portion thereof to the Corporation.

(b) The corn crop on any insured acreage may be released by the Corporation to be put to a use other than harvest as grain, subject to an appraisal by the Corporation of the yield that would be realized if the crop were harvested: *Provided, however,* That such appraisal shall not be less than 15 percent of the amount of insurance for such acreage if the corn crop is released for the purpose of feeding to livestock in the field and is so used: *Provided, further,* That such corn crop may be used for ensilage or fodder without a release by the Corporation, if the insured leaves a number of rows considered by the Corporation to be an adequate representative sample for appraising the yield that would be realized if the crop were harvested.

§ 416.65 *Time of loss.* Loss, if any, shall be deemed to have occurred at the completion of harvesting of the insured crop or December 31, 1946 (unless such time is extended by the Corporation), whichever occurs first, unless the Corporation determines that the corn crop was destroyed or substantially destroyed earlier, in which event the loss shall be deemed to have occurred on the date so determined by the Corporation.

§ 416.66 *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation a form entitled "Statement in Proof of Loss for Corn," containing such information regarding the manner and extent of the loss as may be required by the Corporation. The statement in proof of loss shall be submitted not later than 60 days after the time of loss, unless the time is extended in writing by the Corporation. It shall be a condition precedent to any liability under the insurance contract that the insured establish that any loss for which claim is made has been directly caused by one or more of the hazards insured against by the insurance contract during the term of the contract, and that the insured further establish that the loss has not arisen from or been caused by, either

directly or indirectly, any of the hazards not insured against by the insurance contract.

§ 416.67 *Amount of loss.* (a) In the case of investment insurance, the amount of loss for which indemnity will be payable with respect to any insurance unit will be the amount of investment insurance under the contract for such insurance unit, less the product of the insured interest and the cash value (as determined by the Corporation) of the total production for the unit or such part of the total production as is applicable to the insured acreage. If the planted acreage on the insurance unit exceeds the insured acreage on such unit, as determined by the Corporation, the total production for the insurance unit shall be apportioned to determine the production applicable to the insured acreage. Such apportionment shall be based on the ratio of the insured acreage to the planted acreage: *Provided, however,* That, if different amounts of investment insurance per acre or premium rates are established for parts of the insurance unit or if the insured has different shares in parts of the corn crop on the insurance unit, the Corporation may elect to determine the amount of loss for the insured acreage by first determining the loss for the planted acreage and apportioning such loss to the insured acreage based on the ratio of the premium computed for the insured acreage to the premium computed for the planted acreage. The value of the total production shall include:

(1) The cash value of the corn harvested;

(2) The cash value of the appraised production for any corn left in the field after harvest;

(3) The cash value of the appraised production for any acreage which is released by the Corporation and planted to a substitute crop for harvest in 1946, or the product of such acreage and 50 percent of the amount of investment insurance per acre (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(4) The cash value of the appraised production for any acreage which is released by the Corporation and not planted to a substitute crop for harvest in 1946, or the product of such acreage and 15 percent of the amount of investment insurance per acre (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(5) The cash value of the appraised production for any acreage which is released by the Corporation for the feeding of livestock in the field and is so used, or the product of such acreage and 15 percent of the amount of investment insurance per acre (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(6) The cash value of the appraised production for any acreage which is released by the Corporation for ensilage or fodder purposes and is so used;

(7) The cash value of the appraised production for acreage that is put to another use without the consent of the Corporation (except as provided in § 416.64 (b) hereof), or the product of

such acreage and the amount of investment insurance per acre, whichever is larger;

(8) The cash value of the appraised number of bushels by which production on any acreage has been reduced solely because of any cause not insured against, or the product of such acreage and the amount of investment insurance per acre minus the cash value of any production for such acreage determined without regard to this paragraph, whichever is larger;

(9) The cash value of the appraised number of bushels by which production on any acreage has been reduced because of any cause not insured against, where damage on such acreage has resulted from a cause insured against and a cause not insured against; and

(10) The cash value of the appraised production remaining unharvested December 31, 1946.

(b) In the case of yield insurance, the amount of loss for which indemnity will be payable with respect to any insurance unit will be the amount of insurance under the contract for such unit, less the product of the insured interest and the total production for the unit or such part of the total production as is applicable to the insured acreage. If the planted acreage on the insurance unit exceeds the insured acreage on such unit, as determined by the Corporation, the total production for the insurance unit shall be apportioned to determine the production applicable to the insured acreage. Such apportionment shall be based on the ratio of the insured acreage to the planted acreage: *Provided, however,* That, if different yields or premium rates are established for parts of the insurance unit or if the insured has different shares in parts of the corn crop on the insurance unit, the Corporation may elect to determine the amount of loss for the insured acreage by first determining the loss for the planted acreage and apportioning such loss to the insured acreage based on the ratio of the premium computed for the insured acreage to the premium computed for the planted acreage. Such total production shall include:

(1) Corn harvested;

(2) The appraised production for any corn left in the field after harvest;

(3) The appraised production for any acreage which is released by the Corporation and planted to a substitute crop for harvest in 1946, or the product of (i) such acreage and (ii) 50 percent of the product of the average yield and the insured percentage (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(4) The appraised production for any acreage which is released by the Corporation and not planted to a substitute crop for harvest in 1946, or the product of (i) such acreage and (ii) 15 percent of the product of the average yield and the insured percentage (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(5) The appraised production for any acreage which is released by the Corporation for the feeding of livestock in the field and is so used, or the product of (i)

such acreage and (ii) 15 percent of the product of the average yield and the insured percentage (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(6) The appraised production for any acreage which is released by the Corporation for ensilage or fodder purposes and is so used;

(7) The number of bushels of corn which the Corporation determines will result in indemnifying the insured for the amount that the production harvested from any insured corn acreage lacks of having a value of 50 percent of the current local value of a number of bushels of corn (of the class and grade established for the payment of the premium) equal, for the insured acreage, to the smaller of (i) the number of bushels of such production harvested, or (ii) the insured production for the insurance unit minus the total production of corn determined for the insurance unit without regard to this paragraph;

(8) The appraised production for any portion of the acreage that is put to another use without the consent of the Corporation (except as provided in § 416.64 (b) hereof), or the product of (i) such acreage and (ii) the product of the average yield and the insured percentage (rounded after each computation in accordance with § 416.93 hereof), whichever is larger;

(9) The appraised number of bushels by which production on any acreage has been reduced solely because of any cause not insured against, or the product of (i) such acreage and (ii) the product of the average yield and the insured percentage (rounded after each computation in accordance with § 416.93 hereof), minus any quantity of corn harvested from such acreage, whichever is larger;

(10) The appraised number of bushels by which production on any acreage has been reduced because of any cause not insured against, where damage on such acreage has resulted from a cause insured against and a cause not insured against; and

(11) The appraised production remaining unharvested December 31, 1946.

(c) Where the insured fails to establish and maintain separate records of acreage or production for the component parts of a combination of two or more insurance units or portions thereof, the insurance with respect to such units under the contract may be voided by the Corporation and the premium forfeited by the insured: *Provided, however,* That if all the component parts of the combination are insured the total amounts of insurance for the component parts shall be considered as the amount of insurance for the combination, and any loss for such combination shall be determined as outlined in paragraph (a) or (b) of this section. Where the insured fails to establish and maintain separate records of acreage or production for non-insurable acreage and for one or more insurance units or portions thereof, any production from the non-insurable acreage which is commingled with the production from the insured acreage shall be considered to have been produced on the insured acreage, or the insurance

with respect to such unit(s) under the contract may be voided by the Corporation and the premium forfeited by the insured.

PAYMENT OF INDEMNITY

§ 416.68 *When indemnity payable.* The amount of loss for which the Corporation may be liable with respect to any insurance unit covered by the insurance contract shall be payable within thirty days after satisfactory proof of loss is approved by the Corporation. However, if payment of any indemnity is delayed for any reason beyond the time specified, the Corporation shall not be liable for interest or damages on account of such delay.

§ 416.69 *Indemnity payment.* (a) Any indemnity due under an investment insurance contract will be paid by the issuance of a check payable to the order of the person(s) entitled to such payment under the regulations in this subpart.

(b) Any indemnity due under a yield insurance contract will be paid by the issuance of a certificate of indemnity which shall bear an expiration date. Settlement under such certificate will be made in cash or corn in accordance with this subpart. Such certificate may also be used to obtain a loan from the Commodity Credit Corporation, if loans on certificates of indemnity are available.

(c) In case of a cash settlement under a certificate of indemnity, the cash equivalent of the indemnity shall be the number of bushels of corn specified in the certificate of indemnity multiplied by the cash equivalent price per bushel for the day the certificate of indemnity or other request of the insured for cash settlement or for determining the cash equivalent is received in the branch office of the Corporation, or the expiration date of the certificate, whichever occurs first. A cash settlement under a certificate of indemnity made more than 14 days after the issuance of the certificate shall be subject to a deduction for a reasonable charge for storage and handling and the schedule of such charges shall be shown on the certificate of indemnity.

(d) Any indemnity payable under an insurance contract shall be paid to, and settlement under the certificate of indemnity made with, the insured or such other person as may be entitled to the benefits of the insurance contract under the provisions in this subpart, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy directed against the insured or such other person, or against any indemnity alleged to be due to such person; nor shall the Corporation or any officer, employee, or representative thereof be a proper party to any suit or action with reference to such indemnity or the proceeds thereof nor be bound by any judgment, order, or decree rendered or entered therein. No officer, agent, or employee of the Corporation shall, because of any such process, order, or decree, pay or cause to be paid, to any person other than the insured or other person entitled to the benefits of the insurance contract, any indemnity payable, or any amount due in settlement of any certificate of indemnity in accordance with the provisions of the

insurance contract. Nothing herein contained shall excuse any person entitled to the benefits of the insurance contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

(e) The Corporation shall provide for the posting in each county at the county courthouse of a list of indemnities paid for losses on the 1946 corn crop on farms in such county.

§ 416.70 *Adjustment in connection with indemnity payments for yield insurance.* Where an adjustment is made under a yield insurance contract in the amount of an indemnity, settlement for such adjustment may be made on the basis of a cash equivalent price per bushel other than that used in making settlement under the certificate of indemnity originally issued.

§ 416.71 *Other insurance.* If the insured has or acquires any other insurance against substantially all the risks that are insured against by the Corporation under the insurance contract on the crop or portion thereof covered in whole or in part by such insurance contract, regardless of whether such other insurance is valid or collectible, the liability of the Corporation shall not be greater than its share would be if the amount of its obligations were divided equally between the Corporation and such other insurer. In any case where an indemnity is paid to the insured by another Government agency because of damage to the corn crop, the Corporation reserves the right to determine its liability under the insurance contract taking into consideration the amount paid by such other agency.

§ 416.72 *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any person(s) for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.

§ 416.73 *Creditors.* An interest existing by virtue of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or any other process shall not be considered an interest in an insured crop within the meaning of this subpart.

PAYMENT OF INDEMNITY TO PERSONS OTHER THAN ORIGINAL INSURED

§ 416.74 *Indemnities subject to all provisions of insurance contract.* Indemnities payable to any person shall be subject to all provisions of the insurance contract, including the right of the Corporation to deduct from any such indemnity the unpaid amount of the note of the original insured for the payment of the earned premium or any other obligation of the insured to the Corporation: *Provided, however,* That in case of a transfer of an interest in an insured crop, such deduction to be made from an indemnity payable to the transferee shall not exceed the premium due on the insurance unit or units involved in the transfer, plus the unpaid amount of any

other obligation of the transferee to the Corporation. Any indemnity payable to any person other than the original insured as a result of a transfer, or otherwise, shall be subject to any collateral assignment of the insurance contract by the original insured.

§ 416.75 *Collateral assignment of right under insurance contract.* The right to an indemnity under an insurance contract may be assigned by the original insured as collateral security for a loan or other obligation of such insured. Such assignment shall be made by the execution of a form entitled "Collateral Assignment," and, upon approval thereof by the Corporation, the interests of the assignee will be recognized if an indemnity is payable under the insurance contract, to the extent of the amount determined to be the unpaid balance of the amount (including interest and other charges) for which such assignment was made as collateral security: *Provided, however,* That (a) payment of any indemnity will be subject to all conditions and provisions of the insurance contract and to any deductions authorized under § 416.74 hereof, and (b) payment of the indemnity may be made by check payable jointly to all persons entitled thereto and such payment shall constitute a complete discharge of the Corporation's obligation with respect to any loss under the insurance contract. The Corporation's approval of an assignment shall not create in the assignee any right other than that derived from the assignor. The Corporation shall in no case be bound to accept notice of any assignment of the insurance contract, and nothing contained in any assignment shall give any right against the Corporation to any person other than the insured, except to an assignee approved by the Corporation. Only one such assignment will be recognized in connection with the insurance contract, but if an assignment is released, a new assignment may be made.

§ 416.76 *Payment to transferee.* In the event of a transfer of all or a part of the insured interest in a corn crop before the beginning of harvest or the time of loss, whichever occurs first, the transferor shall immediately notify the Corporation thereof in writing at the office of the county association. The transferee under such a transfer shall be entitled to the benefits of the insurance contract with respect to the interest so transferred, subject to any assignment made by the original insured in accordance with § 416.75 hereof: *Provided, however,* That an involuntary transfer of an insured interest in a corn crop solely because of the existence of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or other process shall not entitle any holder of any such interest to any benefits under the insurance contract: *Provided, further,* That the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than would have been paid if the transfer had not taken place. If, as a result of any such transfer, diverse interests appear with respect to any insurance unit, the indemnity, if any, payable with respect to such unit may be paid jointly to all persons having the in-

sured interest in the crop at the time harvest is commenced or the time of loss, whichever occurs first, or to one of such persons on behalf of all such persons, and payment in any such manner shall constitute a complete discharge of the Corporation's liability with respect to such unit under the insurance contract.

§ 416.77 *Death, incompetence, or disappearance of insured.* (a) If the insured dies, is judicially declared incompetent, or disappears, before the time of loss, and his insured interest in a corn crop is a part of his estate at such time, or if the insured dies, is judicially declared incompetent, or disappears subsequent to such time, the indemnity, if any, shall be paid to the legal representative of his estate, if one is appointed or is duly qualified. If no such representative is or will be so qualified, the indemnity shall be paid to the persons beneficially entitled to share in the insured's interest in the crop or to any one or more of such persons on behalf of all such persons: *Provided, however,* That, if the amount of the indemnity exceeds \$500, the Corporation may withhold the payment of the indemnity until a legal representative of the insured's estate is duly qualified to receive such payment.

(b) If the insured dies, is judicially declared incompetent, or disappears before the time of loss, and his interest in the crop is not a part of his estate at such time, the indemnity, if any, shall be paid to the person(s) who succeeded to his interest in the crop in the manner provided for in § 416.76 hereof.

(c) If an applicant for insurance dies or is judicially declared incompetent less than 15 days before the applicable calendar closing date for the filing of applications for insurance, but before any corn crop intended to be covered by insurance is planted, whoever succeeds him on the farm with the right to plant the corn crop as his heir or heirs, administrator, executor, guardian, committee, or conservator shall be substituted for the original applicant upon filing with the office of the county association within 15 days (unless such period is extended by the Corporation) after the date of such death or judicial declaration, or before the date of the beginning of planting, whichever is earlier, a statement in writing, on Form FCI-2, "Agreement", requesting such substitution and agreeing to assume the obligations of the original applicant arising out of such application. If no such statement is filed, as required by this paragraph, the original application shall be void.

(d) The insured shall be deemed to have disappeared within the meaning of the regulations in this subpart if he fails to file with the county committee written notice of his new mailing address within 180 calendar days after any communication by or on behalf of the Corporation is returned undeliverable at the last known address of the insured.

§ 416.78 *Fiduciaries.* Any indemnity payable under an insurance contract entered into in the name of a fiduciary who is no longer acting in such capacity at the time for the payment of indemnity and settlement under the certificate of indemnity will be made to the succeeding fiduciary upon appropriate ap-

plication and proof satisfactory to the Corporation of his incumbency. If there is no succeeding fiduciary, payment of the indemnity shall be made to, and settlement under the certificate of indemnity shall be made with, the persons beneficially entitled under this subpart to the insured interest in the crop, to the extent of their respective interests, upon proper application and proof of the facts: *Provided, however,* That the settlement may be made with any one or more of the persons so entitled, and payment may be made to such person or persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized by the other interested persons to receive such payment.

§ 416.79 *Determination of person to whom indemnity shall be paid.* In any case where the insured has transferred his interest in all or a portion of the corn crop on any insurance unit, or has ceased to act as a fiduciary, or has died, has been judicially declared incompetent or has disappeared, payment in accordance with the provisions of this subpart will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or non-existence of a circumstance in the event of which payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive. Payment of any indemnity under this section shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

REFUNDS OF EXCESS NOTE PAYMENTS

§ 416.80 *Refunds of excess note payments.* The Corporation shall not be required to make a refund of any excess payment made on a note until the premium on all insurance units covered by the insurance contract has been determined. In the case of a commodity note, if a refund is to be made of any excess payment received before the maturity date, the cash equivalent of such refund shall be determined on the basis of the number of bushels of corn to be refunded and the cash equivalent price for the appropriate class and grade of such corn effective for the date such payment was submitted to the Corporation. If more than one payment is made on the insurance premium, the payments shall be applied in the order of submittal to the Corporation. In computing the amount of any refund, the payments shall be considered in their inverse order and each such payment or portion thereof shall be regarded as a separate payment in determining the cash equivalent of the refund. Refunds of excess payments received on a cash note, or refunds of excess payments received on a commodity note after maturity, shall be refunded in the actual amount of money paid to the Corporation in excess of that determined to be necessary to pay such note.

There shall be no refund of an amount less than \$1.00, with respect to payments made either before or after the maturity of the note, unless written request for such refund is received by the Corpora-

tion within one year after the expiration of the contract.

§ 416.81 *Assignment or transfer of claims for refunds not permitted.* No claim for a refund, or any part thereof, or any interest therein, shall be assignable or transferable, notwithstanding any assignment of the insurance contract or any transfer of interest in any corn crop covered by the insurance contract. Refund of any excess note payment will be made only to the person who made such payment except as provided in § 416.82 hereof.

§ 416.82 *Refund in case of death, incompetence, or disappearance.* In any case where a person who is entitled to a refund of a payment has died, has been judicially declared incompetent, or has disappeared, the provisions of § 416.77 hereof with reference to the payment of indemnities in any such case shall be applicable with respect to the making of any such refund.

ESTABLISHMENT OF AMOUNTS OF INVESTMENT INSURANCE PER ACRE, AVERAGE YIELDS, AND PREMIUM RATES

§ 416.83 *Establishment of amounts of investment insurance per acre.* (a) The Corporation shall establish amounts (dollars) of investment insurance per acre for one or more levels of insurance for corn farms in any county designated by the Corporation. Such amounts shall not exceed (1) 75 percent of the investment in the corn crop as determined by the Corporation or (2) 75 percent of the product of the average yield of corn for the farm and the market price per bushel of corn as determined by the Corporation. The amounts of investment insurance per acre so established shall be shown on the crop insurance listing sheet.

(b) The Corporation shall establish a basic amount (dollars) of investment insurance per acre for corn farms in any county designated by the Corporation. Additional amounts of insurance may be added to the basic amount, with respect to any farm, to represent all or part of specified investment costs as determined by the Corporation, not taken into consideration in establishing the basic amount. The amounts of investment insurance per acre established pursuant to this paragraph shall not exceed 75 percent of the investment in the corn crop as determined by the Corporation. The amounts of investment insurance per acre so established shall be shown on the crop insurance listing sheet.

§ 416.84 *Establishment of farm average yields of corn per acre.* The Corporation shall establish average yields of corn for farms, in any county designated by the Corporation, on the basis of the recorded or appraised yields for a representative period of years and shall, where necessary, adjust such yields so that the average yields for farms in the same area which are subject to the same conditions shall be fair and just.

§ 416.85 *Establishment of premium rates.* The Corporation shall establish premium rates for farms in amounts deemed adequate to cover claims for corn crop losses and to provide a reasonable reserve against unforeseen losses.

§ 416.86 *Amounts of investment insurance, per acre, average yields, and premium rates where farm varies widely in cost of production, productivity, or farming hazards or where tracts of the farm are widely separated.* If the land comprising any farm consists of tracts varying widely in cost of production, productivity, topography, or farming hazards, or if tracts of the farm are widely separated, separate amounts of investment insurance per acre, average yields and premium rates may be established by the Corporation for such tracts on the basis of appraisal, taking into consideration the yield data available.

GENERAL

§ 416.87 *Meaning of terms.* For the purpose of the 1946 Corn Crop Insurance Program, the term:

(a) "Average yield" means the average yield of corn per acre established by the Corporation for each farm or portion thereof.

(b) "Cash equivalent price per bushel" means the net price per bushel of shelled corn established by the Corporation for the area in which the insurance unit is located, on the basis of the price of corn at the basic or local market designated by the Corporation for the area, with differentials (where applicable) for the location of the area in which the insurance unit is situated.

(c) "Corporation" means the Federal Crop Insurance Corporation.

(d) "County association" means the County Agricultural Conservation Association in the county.

(e) "County committee" means the County Agricultural Conservation Committee for the county.

(f) "Crop insurance listing sheet" means the form(s) prescribed by the Corporation for the purpose of maintaining a record of insurance units, amounts of investment insurance per acre, average yields and premium rates, and any other related information with respect to such insurance units, including the actuarial tables which may be attached to the crop insurance listing sheet. The crop insurance listing sheet is on file in the office of the county association and is available for inspection by any producer whose farm is listed thereon.

(g) "Crop year" means the period within which the corn crop is planted and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested.

(h) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and (2) any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm constitutes a unit with respect to the rotation of crops: *Provided, however,* That for the purpose of determining the mini-

mum participation for a crop insurance program in any county, the term "farm" means that acreage of land which constitutes an insurance unit, except that where a landlord and all of his tenants or sharecroppers file applications for insurance and all of the landlord's corn acreage is worked by tenants or sharecroppers, the number of farms to be counted shall be one less than the number of insurance units.

A farm shall be regarded as located in the county for crop insurance purposes if it is listed on the 1946 crop insurance listing sheet for such county. However, if a farm is not listed on the crop insurance listing sheet for the county before the applicable closing date for filing applications in the county, the farm shall be regarded as located in the county in which the principal dwelling is situated, or, if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

(i) "Harvest" means picking the corn from the stalk either by hand or machine.

(j) "Insurance contract" means the contract of insurance entered into between the applicant and the Corporation by virtue of the application for insurance and the regulations in this subpart and any amendments thereto.

(k) "Insured interest" means either the insured's interest in the crop, as stated in the application for insurance, or the interest which the Corporation determines as the insured's actual interest at the time of planting, whichever the Corporation shall elect, except that for the purpose of determining loss the insured interest shall not exceed the insured's actual interest at the time of loss.

(l) "Insured percentage" means, in the case of yield insurance, the percentage of the average yield of corn per acre for the insurance unit covered by an insurance contract, and shall be either 50 or 75 percent.

(m) "Insurance unit" means all or that portion, as the case may be, of the farm (considered for the purpose of establishing the amount(s) of investment insurance per acre, average yield(s) and premium rate(s)) in which the insured has an interest as a corn producer at the time of planting, except that (1) when a part of such land is regularly irrigated and a part is never irrigated the portion of the land on the farm which is to be irrigated in the current crop year (as shown in the application for insurance) shall constitute one insurance unit and the remainder shall constitute another insurance unit, and (2) when separate amounts of insurance per acre and rates have been established for widely separated parts of such land, such portions of the land shall constitute separate insurance units: *Provided, however,* That all or any part of such land which is designated on the crop insurance listing sheet in the office of the county association as "non-insurable," because of the insurance risk involved, shall not constitute an insurance unit or any part thereof and shall not be considered in any manner whatsoever under the insurance contract, except as provided in § 416.67 (c) hereof.

(n) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(o) "Premium rate" means the premium rate per acre established by the Corporation for insurance on corn.

(p) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the corn crop thereon or of the proceeds therefrom.

(q) "State committee" means the State agricultural conservation committee for the State.

(r) "State Director" means the representative of the Corporation in the representative of the Corporation in the operation of the crop insurance program in the State.

(s) "Tenant" means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the crop or proceeds therefrom), and is entitled under a written or oral lease or agreement, to receive all or a share of the crop or proceeds therefrom produced on such land.

§ 416.88 *Restriction on purchase and sale of corn by the Corporation.* The restriction on the purchase and sale of corn, as provided in section 508 (d) of the Federal Crop Insurance Act, as amended, reads in part as follows:

Insofar as practicable, the Corporation shall purchase the agricultural commodity only at the rate and to a total amount equal to the payment of premiums in cash by farmers or to replace promptly the agricultural commodity sold to prevent deterioration; and shall sell the agricultural commodity only to the extent necessary to cover payments of indemnities and to prevent deterioration: *Provided, however,* That nothing in this section shall prevent prompt offset purchases and sales of the agricultural commodity for convenience in handling. Nothing in this section shall prevent the Corporation from accepting, for the payment of premiums, notes payable in the commodity insured, or the cash equivalent, upon such security as may be determined pursuant to subsection (b) of this section, and from purchasing the quantity of the commodity represented by any of such notes not paid at maturity.

§ 416.89 *Records and access to farm.* For the purpose of enabling the Corporation to determine the loss, if any, that may have occurred under the insurance contract, the insured shall keep, or cause to be kept, for one year after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition, of all corn produced on each insurance unit covered by the insurance contract. Such records shall be made available for examination by the Corporation, and as often as may reasonably be required, any person or persons designated by the Corporation shall have access to the farm. (See § 416.67 (c) hereof.)

§ 416.90 *Review of determinations of State and county committees.* Any determination by a State or county committee shall be subject to review and approval or revision by duly authorized representatives of the Corporation.

§ 416.91 *Applicant's warranties; voidance for fraud.* In applying for insurance the applicant warrants that the information, data, and representations submitted by him in connection with the insurance contract are true and correct, and are made by him, or by his authority, and shall be taken as his act. The insurance contract may be voided and the premium forfeited to the Corporation without the Corporation's waiving any right or remedy, including its right to collect the amount of the note executed by the insured, whether before or after maturity, if at any time the insured has concealed any material fact or made any false or fraudulent statement relating to the insurance contract, the subject thereof, or his interest in the corn crop covered thereby, or if the insured shall neglect to use all reasonable means to produce, care for or save the corn crop covered thereby, whether before or after damage has occurred, or if the insured fails to give any notice, or otherwise fails to comply with the terms of the contract, including the note, at the time and in the manner prescribed.

§ 416.92 *Modification of insurance contract.* No notice to any county committee or representative of the Corporation or knowledge possessed by any such county committee or representative or by any other person shall be held to effect a waiver of or change in any part of the insurance contract or to estop the Corporation from asserting any right or power under such contract; nor shall the terms of such contract be waived or changed except as authorized in writing by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of the insurance contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers thereunder or by any requirement, act, or proceeding, on the part of the Corporation or of its representatives, relating to appraisal or to any examination herein provided for.

§ 416.93 *Rounding of fractional units.* Fractions of yields per acre and premium rates for yield insurance shall be rounded to the nearest tenth of a bushel. The premium for the insurance contract, the amount of insurance, the actual production, and the appraised production for yield insurance shall be rounded to the nearest whole bushel. Fractions of premium rates for investment insurance shall be rounded to the nearest tenth of a dollar. The amount of investment insurance for an insurance unit and the value of the production in the case of investment insurance shall be rounded to the nearest whole cent. Fractions of acres shall be rounded to the nearest tenth of an acre. Computations shall be carried to one digit beyond the digit that is to be rounded. If the extra digit computed is 1, 2, 3, or 4, the rounding shall be downward. If the extra digit computed is 6, 7, 8, or 9, the rounding shall be upward. If the extra digit computed is 5, the computation shall be carried to another digit. If the two extra digits are 50, the rounding shall be downward, and if the two extra digits are 51 or any higher figure, the rounding shall be upward.

§ 416.94 *Closing dates for submission of applications.* The closing date for the submission of applications to the office of the county association shall be the date of the beginning of planting of the corn crop on any insurance unit covered by the application, or the following applicable date, whichever is earlier:

March 2, 1946, for McLennan County, Texas;

March 16, 1946, for Houston County, Georgia;

March 30, 1946, for Madison County, Alabama;

April 20, 1946, for Daviess County, Kentucky; and

May 1, 1946, for all other counties.

§ 416.95 *Maturity dates for premium notes.* The maturity dates for premium notes shall be as follows:

July 31, 1946, for Houston County, Georgia, and McLennan County, Texas;

August 31, 1946, for Madison County, Alabama; and

November 30, 1946, for all other counties.

NOTE: The record keeping requirements of these regulations have been approved by, and subsequent reporting requirements will be subject to the approval of, the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on February 6, 1946.

[SEAL]

E. D. BERKAW,

Acting Secretary,

Federal Crop Insurance Corporation.

Approved: February 14, 1946.

CLINTON P. ANDERSON,

Secretary of Agriculture.

[F. R. Doc. 46-2559; Filed, Feb. 15, 1946; 11:09 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T. D. 51407]

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

COMPENSATION OF STOREKEEPER

Charge for reimbursable compensation of storekeeper. Section 19.5 (c), Customs Regulations of 1943, as redesignated by T. D. 51387, amended.

Section 19.5 (c), Customs Regulations of 1943 (19 CFR, Cum. Supp., 19.5 (c)), as redesignated by T. D. 51387, is hereby amended by changing the period at the end thereof to a comma and adding: "except that no collection shall be made if the total amount chargeable against one proprietor for one day amounts to 30 cents or less."

(Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U.S.C. 1555, 1556, 1624; secs. 301, 405, 602, and 604, Public Law 106, 79th Congress)

[SEAL]

W. R. JOHNSON,

Commissioner of Customs.

Approved: January 31, 1946.

H. D. WHITE,

Acting Secretary of the Treasury.

[F. R. Doc. 46-2539; Filed, Feb. 14, 1946; 3:27 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter VIII—Supplies and Equipment

[Procurement Regs. 1-3, 5-7A, 11-14]

MISCELLANEOUS AMENDMENTS

The following amendments and additions to the regulations contained in Parts 801-803, inclusive, 805, 806, 811-814, inclusive, 821, 823, 824, 827 and 830 are hereby prescribed. These regulations are also contained in War Department Procurement Regulations dated September 5, 1942 (9 F.R. 8363¹) as amended by Change 54, January 31, 1946, the particular regulations being Nos. 1-3, 5-7A, and 11-14.

In section numbers the figures to the right of the decimal point correspond with the respective paragraph numbers in the procurement regulations.

AUTHORITY: Sec. 5a, National Defense Act, as amended, 41 Stat. 764, 54 Stat. 1225; 10 U.S.C. 1193-1195; the First War Powers Act, 1941, 55 Stat. 838, 50 U.S.C. Supp. 601-622.

Subchapter A—Procurement

[Procurement Reg. 1]

PART 801—GENERAL INSTRUCTIONS

SUBPART A—INTRODUCTION

Section 801.105a (b) (4) is amended to read as follows:

§ 801.105a *Reference to units the designation of which has since been changed, or which have been abolished and their functions transferred to other units.* * * *

(b) * * *

(4) *Production Division; Purchases Division.* ASF Circular No. 329, dated August 31, 1945, provides in part that "Effective September 1, 1945, the Production and Purchases Division is established under the jurisdiction of the Director of Matériel to consist of the former Production Division and the former Purchases Division"; and the authority previously granted to the Director, Purchases Division, has been delegated to the Director, Production and Purchases Division (See § 801.107-6). ASF Circular No. 453, dated December 27, 1945, redesignated the Production and Purchases Division of the Director of Matériel as the Procurement Division, and amended ASF Circular No. 329, above referred to, accordingly.

[Procurement Reg. 2]

PART 802—GENERAL PROCUREMENT POLICIES AND PROCEDURES

Part 802 is amended to read as follows:

SUBPART A—GENERAL

Sec.
802.201 Scope of the regulations.
802.202 Rescission of regulations.
802.203 Compliance with this part.
802.204 Definitions.

SUBPART B—BASIS OF PROCUREMENT POWERS

802.205 Contracting authority.
802.206 Public No. 703, 76th Congress.
802.207 First War Powers Act.
802.208 Executive Order 9001.

¹ See also 10 F.R. 10449, 11418, 13171; 11 F.R. 5.

SUBPART C—POLICIES AND FORMS

Sec.
802.210 General.
802.211 Procurement objective.
802.212 General price policies.
802.213 Time for placing contracts and scheduling deliveries.
802.213a Quantities and rate of delivery.
802.214 Factors governing selection of contractors.
802.215 Purchases from or through jobbers, distributors, or other intermediaries.
802.216 Disqualified bidders.
802.217 Types of contracts.
802.220 Standard procurement forms prescribed for use in certain cases.
802.221 Invitation for bid forms.
802.222 Bid and abstract of bid forms.
802.223 Newspaper advertising forms.
802.224 Award forms.

SUBPART D—PROCUREMENT BY FORMAL ADVERTISING

802.230 General.
802.231 Invitations for bids.
802.232 Specifications.
802.233 Numbering of invitations.
802.234 Date specified for opening of bids.
802.235 Distribution of invitations for bids.
802.236 Publication of invitations for bids in newspapers.
802.237 Information to be furnished prospective bidders.
802.238 Assistance not to be rendered.
802.239 Telegraphic bids and amendments.
802.240 Modification or withdrawal of bids.
802.241 Opening of bids.
802.242 Abstracts of bids.
802.243 Rejection of bids.
802.244 Waiver of irregularities in bids.
802.245 Mistakes in bids.
802.246 Equal bids.
802.247 Bids received after opening.
802.248 Distribution of bids and abstracts.
802.249 Awards.
802.250 Correspondence and contact with bidders.

SUBPART E—PROCUREMENT BY NEGOTIATION

802.260 When negotiation employed.
802.261 Solicitations for bids and awards.
802.261a Certificate of OPA compliance.
802.262 Absence of competition.
802.263 Price revision.
802.264 Policies on certain special items of cost.
802.265 Purchase analysis.
802.266 Purchasing by prime contractors.
802.275 General policies.
802.276 Price analysis.
802.277 Profit analysis.
802.278 Financial organization.
802.279 Supervision of prices under subcontracts and purchases.
802.280 Reports of excessive prices.
802.281 Coordination.
802.282 Relation of company pricing to pricing of individual contracts.

SUBPART F—CONTRACTING POLICY REGARDING CONSTRUCTION AND MAINTENANCE WORK

802.285 General.

SUBPART G—PURCHASE ACTION REPORTS

802.290 General.
802.291 Definitions.
802.292 Procedures for reporting stations.
802.293 Procedures for reporting headquarters.
802.294 Special instructions concerning reporting of certain kinds of purchase actions.
802.295 Other instructions on reports.
802.296 Report forms and related instructions.

SUBPART A—GENERAL

§ 802.201 *Scope of the regulations.* Basic principles governing War Department procurement are discussed in this

part, e. g., statutory authorities controlling procurement by the department, methods of procurement, and general policies guiding War Department personnel in procurement activities. The regulations that follow (Parts 803 to 849) deal with more specific problems arising in connection with procurement.

§ 802.202 *Rescission of regulations.* Army Regulations 5-140, May 22, 1940, as amended; Army Regulations 5-160, October 24, 1941, as amended; Army Regulations 5-240, February 11, 1936, as amended; and all other prior directives and instructions of whatsoever nature relating to negotiated purchases, open market purchases, procurement without advertising, and other purchasing methods, have been rescinded.

§ 802.203 *Compliance with this part.* Unless otherwise specifically provided, compliance with any provision of this part or of any amendment thereto which requires a change in contract procedure or in any contract provisions shall not be mandatory until thirty days after the issuance of such regulation or amendment.

§ 802.204 *Definitions.*

§ 802.204-1 *Negotiation.* The term "negotiation" as used in these procurement regulations includes any method of contracting or purchasing except formal advertising.

§ 802.204-2 *Negotiated purchases.* The term "negotiated purchases" includes all purchases made by negotiation.

§ 802.204-3 *Formal advertising.* The term "formal advertising" means the preparation of invitations for bids, the publication and distribution thereof to prospective bidders, and award to the lowest responsible bidder, as contemplated by section 3709, Revised Statutes, and as prescribed by Subpart D of this part.

§ 802.204-4 *Responsible bidder.* A "responsible bidder" is one who (a) qualifies as such under laws and regulations governing the purchase of the supplies to be procured, (b) is a manufacturer of or regular dealer in such supplies, (c) is in position to perform the contract, and (d) whose previous record for the faithful fulfillment of similar contract obligations does not justify the belief that he will fail to perform the contract in accordance with its terms.

§ 802.204-5 *Lowest responsible bidder.* The "lowest responsible bidder" is that responsible bidder whose bid, if accepted, would result in the lowest ultimate cost to the Government of the supplies to be procured.

§ 802.204-6 *Regular dealer.* A "regular dealer" is (a) an individual, firm or corporation regularly carrying a stock of the merchandise bid upon and who has a warehouse or shop from which sales are made to the public, or to the Government, or (b) a bona fide manufacturer's agent regularly employed on a salary or commission basis by one or more manufacturers of the goods bid upon, with authority to bind such manufacturer or manu-

facturers to a contract and who holds proper credentials which establish those facts.

§ 802.204-7 *Supplies.* The term "supplies" includes materials, non-personal services, and construction work. It does not include real estate or personal services.

SUBPART B—BASIS OF PROCUREMENT POWERS

§ 802.205 *Contracting authority.* Procurement by the War Department is now based primarily upon the following authorities: (a) Sections 1 (a) and (b) of the act of July 2, 1940 (Public 703, 76th Cong.; 54 Stat. 712; 50 U.S.C., App. 1171), as extended by section 13 of the act of June 5, 1942 (Public 580, 77th Cong.; 56 Stat. 316; 50 U.S.C., App. 713); (b) act of December 18, 1941 (Public 354, 77th Cong.; 55 Stat. 839; 50 U.S.C., App. 611), known as the First War Powers Act; and (c) Executive Order 9001, dated December 27, 1941.

§ 802.206 *Public No. 703, 76th Congress.* Sections 1 (a) and (b) of act of July 2, 1940 (Public 703, 76th Cong.; 54 Stat. 712; 50 U.S.C., App. 1171), read as follows:

That (a) in order to expedite the building up of the national defense, the Secretary of War is authorized, out of the moneys appropriated for the War Department for national defense purposes for the fiscal year ending June 30, 1941, with or without advertising, (1) to provide for the necessary construction, rehabilitation, conversion, and installation at military posts, depots, stations, or other localities, of plants, buildings, facilities, utilities, and appurtenances thereto (including Government-owned facilities at privately owned plants and the expansion of such plants, and the acquisition of such land, and the purchase or lease of such structures, as may be necessary), for the development, manufacture, maintenance, and storage of military equipment, munitions, and supplies, and for shelter; (2) to provide for the development, purchase, manufacture, shipment, maintenance, and storage of military equipment, munitions, and supplies, and for shelter, at such places and under such conditions as he may deem necessary; and (3) to enter into such contracts (including contracts for educational orders, and for the exchange of deteriorated, unserviceable, obsolescent, or surplus military equipment, munitions, and supplies of which there is a shortage), and to amend or supplement such existing contracts, as he may deem necessary to carry out the purposes specified in this section: *Provided*, That the limitations contained in sections 1136 and 3734 of the Revised Statutes, as amended, and any statutory limitations with respect to the cost of any individual project of construction, shall be suspended until and including June 30, 1942, with respect to any construction authorized by this Act: *Provided further*, That no contract entered into pursuant to the provisions of this section which would otherwise be subject to the provisions of the act entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," approved June 30, 1936 (49 Stat. 2036; U. S. C., Supp. V, title 41, secs. 35-45), shall be exempt from the provisions of such act solely because of being entered into without advertising pursuant to the provisions of this section: *Provided further*, That the cost-plus-a-percentage-of-cost system of contracting shall not be used under this section; but this proviso shall not be construed to prohibit

the use of the cost-plus-a-fixed-fee form of contract when such use is deemed necessary by the Secretary of War.

(b) The Secretary of War is further authorized, with or without advertising, to provide for the operation and maintenance of any plants, buildings, facilities, utilities, and appurtenances thereto constructed pursuant to the authorizations contained in this section and section 5, either by means of Government personnel or through the agency of selected qualified commercial manufacturers under contracts entered into with them, and, when he deems it necessary in the interest of the national defense, to lease, sell, or otherwise dispose of, any such plants, buildings, facilities, utilities, appurtenances thereto, and land, under such terms and conditions as he may deem advisable, and without regard to the provisions of section 321 of the act of June 30, 1932 (47 Stat. 412). * * * Section 12, Act of June 5, 1942 (Public 580, 77th Cong.; 56 Stat. 316; 50 U.S.C. App. 713) reads:

That the provisions of section 1 (a) and 1 (b) of the act entitled "An act to expedite the strengthening of the national defense", approved July 2, 1940 (Public, Numbered 703, Seventy-sixth Congress), are hereby continued in effect and made applicable to moneys appropriated for the War Department for national defense purposes during the period prescribed in section 16 of this act (duration of the war and six months thereafter).

§ 802.207 *First War Powers Act.* Title II of the First War Powers Act (Public 354, 77th Cong.; 55 Stat. 839; 50 U.S.C. App. 611) provides:

SEC. 201. The President may authorize any department or agency of the Government exercising functions in connection with the prosecution of the war effort, in accordance with regulations prescribed by the President for the protection of the interests of the Government, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made and to make advance, progress and other payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts whenever he deems such action would facilitate the prosecution of the war: *Provided*, That nothing herein shall be construed to authorize the use of the cost-plus-a-percentage-of-cost system of contracting: *Provided further*, That nothing herein shall be construed to authorize any contracts in violation of existing law relating to limitation of profits: *Provided further*, That all acts under the authority of this section shall be made a matter of public record under regulations prescribed by the President and when deemed by him not to be incompatible with the public interest.

§ 802.208 *Executive Order 9001.* Pursuant to the powers granted him by the First War Powers Act, the President in Title I of Executive Order 9001 (6 F.R. 6787) conferred authority upon the War Department as follows:

(a) Section 1 of the Executive order authorizes the Secretary of War "within the limits of the amounts appropriated therefor, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made, and to make advance, progress, and other payments thereon, without regard to the provisions of law relating to the making, amendment, or modification of contracts" and to delegate these powers with authority to redelegate them. (With respect to such delegations, see § 801.107

and following of these procurement regulations, especially § 801.107-9).

(b) "The contracts hereby authorized to be made include agreements of all kinds (whether in the form of letters of intent, purchase orders, or otherwise) for all types and kinds of things and services necessary, appropriate or convenient for the prosecution of war, or for the invention, development, or production of, or research concerning any such things, including but not limited to, aircraft buildings, vessels, arms, armament, equipment, or supplies of any kind, or any portion thereof, including plans, spare parts and equipment therefor, materials, supplies, facilities, utilities, machinery, machine tools, and any other equipment, without any restriction of any kind, either as to type, character, location or form."

(c) "The War Department, the Navy Department, and the United States Maritime Commission may by agreement modify or amend or settle claims under contracts heretofore or hereafter made, may make advance, progress and other payments upon such contracts of any percentum of the contract price, and may enter into agreements with contractors and/or obligors, modifying or releasing accrued obligations of any sort, including accrued liquidated damages or liability under surety or other bonds, whenever, in the judgment of the War Department, the Navy Department, or the United States Maritime Commission, respectively, the prosecution of the war is thereby facilitated. Amendments and modifications of contracts may be with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished hereunder, irrespective of the time or circumstances of the making of or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract, or the amendments or modifications thereof."

(d) "Advertising, competitive bidding and bid, payment, performance, or other bonds or other forms of security, need not be required."

§ 802.208-1 *Restrictions on authority.* In Title II of Executive Order 9001, the President restricted the authority conferred by Title I thereof, by prescribing the following regulations:

(a) "Complete data shall be maintained by the War Department, the Navy Department, and the United States Maritime Commission as to all contracts and purchases which they respectively make pursuant to the Act and this Executive Order. The Secretary of War, the Secretary of the Navy, and the Chairman of the United States Maritime Commission shall make available for public inspection, as they may respectively deem compatible with the public interest, so much of such data as does not cover restricted, confidential, or secret contracts or purchases." (As amended by E.O. 9296, 8 F.R. 1429.)

(b) "Notwithstanding anything in the Act or this Executive Order, the War Department, the Navy Department, and the United States Maritime Commission shall not discriminate in any act per-

formed thereunder against any person on the ground of race, creed, color or national origin, and all contracts shall be deemed to incorporate by reference a provision that the contractor and any subcontractors thereunder shall not so discriminate." (See § 803.325 of this subchapter.)

(c) "No claim against the United States arising under any purchase or contract made under the authority of the Act shall be assigned except in accordance with the Assignment of Claims Act, 1940 (Public No. 811, 76th Congress, approved October 9, 1940)." (See §§ 803.390-803.390-7 of this subchapter.)

(d) "Advance payments shall be made hereunder only after careful scrutiny to determine that such payments will promote the national interest and under such regulations to that end as the Secretary of War, the Secretary of the Navy, or the United States Maritime Commission may prescribe." (See §§ 803.321-803.321-14 of this subchapter.)

(e) Every contract entered into pursuant to the act and Executive order must contain the warranty by the contractor against payment of commissions and contingent fees set out in § 803.323 or § 827.726 of this chapter (see § 811.1181 of this subchapter).

(f) The cost-plus-a-percentage-of-cost system of contracting shall not be used.

(g) Provisions of law limiting profits under contracts or fixed-fees continue in effect and in no case shall the fixed fee under a cost-plus-a-fixed-fee contract exceed 7% of the estimated cost exclusive of the fee.

(h) "No contract or modification or amendment thereof shall be exempt from the provisions of the Walsh-Healey Act (49 Stat. 2036) because of being entered into without advertising or competitive bidding, and the provisions of that act, the Davis-Bacon Act, as amended (49 Stat. 1011), the Copeland Act, as amended (48 Stat. 948), and the Eight Hour Law, as amended by the Act of September 9, 1940 (Public No. 781, 76th Congress) if otherwise applicable shall apply to contracts made and performed under the authority of this order." (See Part 809 of this subchapter.)

SUBPART C—POLICIES AND FORMS

§ 802.210 General.

§ 802.210-1 *Scope of subpart.* This subpart states the policies to be followed and the factors to be considered in placing contracts, in selecting contractors, in scheduling deliveries and in revising delivery schedules. Unless otherwise specified, these policies apply irrespective of the method of contracting or purchasing employed, i. e., whether by negotiation or formal advertising.

§ 802.210-2 *Related regulations.* Policies governing the placement of contracts for expansion of plant facilities are discussed in Part 810 of this subchapter. Policies governing purchases through other services or departments of the Government are discussed in Part 806 of this subchapter. Policies governing foreign purchases are discussed in Part

805 of this subchapter. Policies governing cutbacks and curtailment of production are discussed in Subchapter C of this chapter.

§ 802.210-3 *Purchases of surplus property.* Sections 806.613 through 806.613-8 of this subchapter set out the policy and procedures of the War Department in carrying out the mandate of the Surplus Property Act with regard to the procurement of supplies from surplus property disposal agencies. Care will be taken to avoid purchasing property obtainable through disposal agencies, from commercial sources.

§ 802.211 *Procurement objective.* It is the War Department's objective to so conduct its procurement activities as to secure its requirements with the least possible expense to the nation. The procedures and policies set forth in these regulations are designed to achieve this purpose by stimulating competition among the Government's suppliers, setting up incentives for efficiency, providing for price analysis, preventing inflationary tendencies, and other means.

§ 802.212 General price policies.

§ 802.212-1 *Need for competition.* To achieve the War Department's procurement objective contracts must be placed at the lowest possible prices. These may generally be obtained in competitive markets.

§ 802.212-2 *Existence of competition.* Whenever price competition exists steps shall be taken to secure quotations from the greatest practicable number of qualified producers by means of formal advertising, or informal solicitation. All qualified producers will be afforded an opportunity to submit quotations. All invitations for bids and solicitations will state that the Government reserves the right to reject all bids and quotations received.

§ 802.213 Time for placing contracts and scheduling deliveries.

§ 802.213-1 *General policies.* (a) In the absence of some reason deemed adequate by the chief of a technical service, contracts will be placed at such times and deliveries will be scheduled so as to avoid the payment of higher prices for the deliveries. Compliance with this policy will require that contracts be placed sufficiently in advance of production to allow contractors normal "lead-time." It will also require that deliveries be timed so as to allow contractors to produce and deliver without abnormal use of their plants and without making it necessary that they pay more than straight-time wages to persons employed in the performance of the contracts.

(b) On the other hand, contracts will not be placed unless and until it has been definitely determined that the items are necessary and must be procured. In this way the acquisition of surpluses and the creation of termination claims will, to a great extent, be avoided. Contracts will be scheduled so that deliveries will synchronize with requirements, unless in a particular case efficient production requires otherwise.

§ 802.213-2 *Avoiding excessive "lead-time."* Procurement will be so planned

that contracts will not generally be placed until shortly before the start of the normal lead-time required for the particular procurement.

§ 802.213-3 *Duration of contracts.* To the extent compatible with obtaining the most economical prices, contracts should be as short in duration as the nature and quantity of the supplies or services being procured will permit.

§ 802.213a *Quantities and rate of delivery.* Notwithstanding the policies discussed in §§ 802.213 to 802.213-3, inclusive, whenever it will not be of manifest disadvantage to the Government, supplies and services will be procured in such quantities and under such schedules for delivery as will afford small business concerns (those employing less than 500 wage earners) a reasonable opportunity to compete for the department's business.

§ 802.214 Factors governing selection of contractors.

§ 802.214-1 *Ability to perform.* Primary emphasis shall be placed upon the prospective contractor's technical and financial ability to perform the contract to be placed with him.

§ 802.214-2 *Price.* The selection of the contractor from among the producers who have the requisite ability to perform will next turn on price. Where the contract is to be awarded after formal advertising it will be placed with the lowest responsible bidder complying with the conditions of the invitation for bids, provided his bid is reasonable and it is to the interest of the United States to accept it. Where the contract is to be awarded without formal advertising it should be placed with the producer having the requisite ability to perform who is willing to accept the lowest price.

§ 802.214-3 *Additional factors.* The following factors will be given due evaluation in negotiated purchases, but will not be considered when the procurement is to be effected by formal advertising. Not all of these factors will apply in each case and no one of them is controlling.

(a) *Release of privately owned plants.* Privately-owned plants not normally engaged in production of a military character will be given first priority of release from war production in order to facilitate their reconversion to civilian production, due consideration being given to the wishes of the contractor. Government-owned plants will be kept in operation or reserve until their production is clearly no longer required for military needs.

(b) *New facilities.* So far as possible, the creation of additional new (as distinguished from existing) machinery, equipment or facilities will be avoided.

(c) *Transportation.* Transportation facilities will be conserved by avoiding unnecessary cross-hauling of raw, semi-finished or finished materials from the point of origin to the point of consumption, and by avoiding long hauling when such materials are available at a shorter distance.

(d) *Small business concerns.* Contracts will be placed so as to make the most effective utilization of the small plants of the nation. To this end as large proportion of negotiated purchases

as practicable will be made from qualified small concerns, directly, if feasible, and if not, through awards to larger firms which will subcontract to small concerns. In connection with the release from war production, independent small concerns should be retained to the fullest extent practicable, due consideration being given to the wishes of such small concerns as may desire to be released from war production. To effectuate this policy with respect to the placement of prime contracts with small concerns, the technical services are authorized and directed to pay a premium price up to 15 per cent higher than the average price at which the purchase can be made from suitable large concerns in any case where the payment of such a premium price is necessary to place a prime contract with a small concern. Payment of a premium price will only be made when the price sought by the small concern is higher than that of the large concerns because of justifiably higher costs. If in the opinion of the chief of a technical service a premium higher than 15 per cent should be paid in a particular case to effectuate this purpose, the proposed prime contract, with supporting data, will be submitted to the Director, Production and Purchases Division, for approval. (A small concern is defined, for the purposes of this policy, as the employer of less than 500 wage earners.)

(e) *More than one source of supply.* Contracts will be placed so as to have for each item of supply and equipment at least two producers so located as not to be subject to the same hazard. This factor need not be considered if the chief of the technical service concerned shall determine (1) that such placement is impracticable, or (2) that although such placement is practicable the plant protection arrangements of the source selected are in his judgment entirely satisfactory, the source has adequate capacity for all foreseeable needs and adequate information with regard to the costs of operation of the source and the prices of comparable items are and will be available to ensure that adequate and efficient analysis may be made of the prices to be charged to the Government for such item. In this connection, consideration will be given to the relative needs of the source selected and of proposed secondary sources for facilities and equipment to perform the contract.

(f) *Contracts for newly developed articles.* In general, a substantial proportion of initial orders for a new article should be placed with the manufacturer who developed it. When the originating manufacturer demands a price for the item substantially higher than the price for which it can be secured elsewhere, or will require substantially more facilities or tools than some other producer in order to get into production, or is already heavily loaded with orders, and the article can readily be made by one or more other producers, the contracts for the article should be placed with such producers.

§ 802.215 *Purchasers from or through jobbers, distributors, or other intermediaries.* The policy of the War Department is not to pay for functions or serv-

ices which are of no benefit to it. Some manufacturers who formerly dealt directly with the War Department have attempted to require that contracts for their products be placed with intermediaries, such as jobbers, brokers, and distributors. Intervention of an intermediary in this manner will be avoided unless the intermediary performs a necessary and substantial function or service for the War Department, or such intervention will not result in a contract price higher than that which would properly be payable if the contract were to be placed directly with the manufacturer.

§ 802.216 *Disqualified bidders.*

§ 802.216-1 *Persons and firms disqualified.* Contracts will not be placed with persons or firms who are on any of the following lists of disqualified bidders: (a) List of persons or firms found by Secretary of Labor to have breached or violated contractual representations and stipulations required by Walsh-Healey Act, published by the Comptroller General (see § 809.924 of this subchapter); (b) List of persons and firms which have been held ineligible to be awarded contracts subject to Public Contracts Act (Walsh-Healey) under provisions of section 5 of that act, published by Department of Labor (see § 809.924 of this subchapter); (c) List of persons and firms found by the Comptroller General to have violated the requirements of the Davis-Bacon Act, published by the Comptroller General (see § 809.914-1 of this subchapter); (d) Confidential List of Bidders to Whom Awards Will Not Be Made, published by The Adjutant General; and (e) Proclaimed List of Certain Blocked Nationals, published by the Department of State (see § 811.1185 of this subchapter); and (f) List of certain foreign countries and nationals thereof as provided by Executive Order 8389, as amended, and Treasury Department regulations issued pursuant thereto (see § 811.1185 of this subchapter).

§ 802.216-2 *Distribution of lists.* The Adjutant General will distribute to the technical services lists of bidders debarred by the Comptroller General by reason of violations of the Walsh-Healey Act or the Davis-Bacon Act and copies of the Confidential List of Bidders to Whom Awards Will Not Be Made. Copies of the proclaimed list of blocked nationals will also be made available to the chiefs of the technical services.

§ 802.216-3 *Procedures for placing bidders on confidential lists of bidders to whom awards will not be made—*(a) *Authority.* The Adjutant General will place a bidder upon the confidential list of bidders to whom awards will not be made (1) where the Director, Procurement Division, Headquarters, Army Service Forces, determines that the bidder has been guilty of fraud or attempted fraud against the United States, or (2) in any instance where the Director, Procurement Division, determines that the best interests of the United States require that contracts be not awarded to the bidder. In recommending that a bidder's name be placed on the list, the chief of a technical service will submit to the Director,

Procurement Division, a full report of the specific instances of the bidder's alleged dereliction together with any available evidence relating to the contract concerned and the complaint against the bidder.

(b) *Notice.* If such action has not already been taken, the Director, Procurement Division, will send to the bidder by registered mail, a notice stating (1) that a recommendation has been made that the bidder's name be placed on the confidential list of bidders to whom awards will not be made, (2) the specific contract, bid, or action of the bidder as to which complaint is made, and the specific nature of the complaint in reasonable detail, and (3) that the bidder may make a statement in writing with respect to the complaint on or before a date fixed in the notice. The bidder will not be given access to any evidence in the hands of the War Department, except in the notice and statement required by this paragraph.

(c) *Direction.* The Director may make such investigations and study of the complaint, either directly or through The Judge Advocate General or The Inspector General, as he deems proper. If the Director determines that the bidder's name should be placed on the confidential list of bidders to whom awards will not be made, he will transmit to The Adjutant General (1) the complete file, including any statement filed by the bidder, together with the direction to place the bidder's name on this list, and (2) drafts of notices of the action taken to be sent by The Adjutant General to the bidder, the technical services and the Comptroller General.

§ 802.217 *Types of contracts.*

§ 802.217-1 *Fixed price contracts.* Contracts for the payment of fixed prices should be used whenever conditions permit. Contracts of reasonable duration for standard articles made by experienced producers will rarely be awarded upon other than a fixed price basis. All contracts awarded after formal advertising will be fixed price contracts.

§ 812.267-2 *Cost-plus-a-percentage-of-cost contracts.* Under no circumstances will contracts provide for the payment to the contractor of cost plus a percentage of cost.

§ 817.217-3 *Cost-plus-a-fixed-fee contracts—*(a) *Disadvantages.* Fixed-fee contracts have the following disadvantages: (1) The fixed-fee contractor does not have the same direct financial inducement to economize in the use of materials, machinery or manpower, or to keep down material and labor costs, or to use ingenuity and inventiveness in finding substitutes and improvements, as has the fixed-price contractor. (2) Such contracts require uneconomical use of auditing and administrative personnel, both by the Government and the contractor, in checking and rechecking vouchers, in auditing and allocating costs and in adjusting accounting questions. (3) The financial pressure which usually restrains a fixed-price contractor in competing for labor and accumulating inventories do not apply to the same extent to the fixed-fee contractor.

(b) *Use forbidden; exceptions.* For the foregoing reasons, no contract will be written on a cost-plus-a-fixed-fee basis: *Provided, however,* That the cost-plus-a-fixed-fee form may be used (1) for contracts which in substance provide for the payment of a management fee for the operation of Government-owned facilities; (2) for contracts of a service character such as modification center and airline contracts; (3) for contracts for first production quantities of articles not previously produced (subsequent quantities of such articles will be produced on a fixed-price basis); (4) where the articles required are new, experimental, or developmental, or unfamiliar to the contractor, and the consequent lack of cost experience may prevent the setting of a fair price when the contract is made; and (5) for research and development contracts: *Provided further,* That the approval of the Director, Procurement Division, Headquarters, Army Service Forces, will be obtained when required by §§ 803.306 and 803.306-4 of this subchapter. Even in these excepted cases, contracts will be placed on a fixed-price basis whenever it is practicable to do so. Utilization of the price adjustment articles authorized by §§ 803.375 and 803.376 of this subchapter should aid materially in negotiating a fixed price for research and development work.

(c) *Conditions on use.* In the exceptional situations where the cost-plus-a-fixed-fee form is used for a supply contract, the following conditions will be met:

(1) When the contractor is to be reimbursed for substantially all its costs, the fixed fee represents essentially profit without risk. It should be determined not by the amount of the estimated cost, but by the extent and nature of the work supervised or the services to be performed by the contractor. Thus in fixing the fee consideration should be given, among other things, to whether the work or production involved is complicated or simple, the turn-over slow or rapid, how much or little of the work will be subcontracted, and how extensive or difficult the duties of the prime contractor will be in supervising the subcontracted work.

(2) Contracts for first production quantities of articles not previously produced will include a provision for conversion as soon as practicable to a fixed price basis (see Article set forth in § 803.341-3). Whenever feasible a similar provision will be included in research, experimental, and developmental contracts.

(3) In no case will the fixed-fee exceed the maximum of 7% for supply contracts.

§ 802.217-4 *Construction contracts.* Wherever feasible, construction contracts will be made on a fixed price rather than a fixed-fee basis.

§ 802.217-5 *Time and material or labor-hour contracts.* The buying of articles or services on the basis of direct labor at specified hourly rates (which rates are intended to include wages, overhead and profit) and material at cost, is usually referred to as the "time and material" or "labor-hour" system of

purchasing. The system was developed primarily for use in those situations where it was not possible at the time of placing the order or contract to estimate accurately the amount or duration of the work or to anticipate costs with any substantial accuracy, and has been employed to some extent in the procurement by the Army or by cost-plus-a-fixed-fee contractors of (1) engineering and design services in connection with production of supplies, (2) the engineering, design and manufacture of dies, jigs, fixtures, gauges and special machine tools, (3) repair work of various kinds, and (4) outside work on regular production in emergency cases.

(a) *Use discouraged.* In the light of present procurement conditions and the cost experience now accumulated the necessity for the use of this system either in direct procurement or in purchases by cost-plus-a-fixed-fee contractors has been greatly reduced. The chiefs of the services will cause the use of this system of purchasing to be restricted to those situations where no practicable alternative exists.

(b) *Conditions on use.* In the restricted situations where this system is permitted to be used, the chiefs of the services will assure that reasonable precautions are taken to prevent the abuses to which it is susceptible. In this connection it is important that particular care be exercised to select firms of known integrity and efficiency and that the use of complete, clear and definite orders or contracts be insisted upon. Adequate control will also require that all time and material or labor-hour purchase orders or contracts issued by a cost-plus-a-fixed-fee prime contractor be approved by the contracting officer.

(c) *Adequacy of contract provisions.* In determining the adequacy of the provisions of any such orders or contracts where their use is permitted, consideration of the following basic elements will be helpful.

(1) *Labor.* Only direct labor should be included in the billing and the types of labor or work to be included in the category of direct labor should be specified. It should also be specified that the time of non-productive personnel will not be included in direct labor. The time of partners, officers, supervisors, foremen, clerks, typists, timekeepers, material handlers, stockroom employees, tool crib attendants, cleaners, janitors, maintenance men, packers, watchmen, truck drivers, and receiving and shipping employees, would normally be considered as non-productive work.

(2) *Hourly rate.* Separate rates should be specified for (i) engineering and design, and (ii) manufacturing and construction work. Separate rates should also be quoted for normal time, overtime and double time work where overtime and double time are necessary.

(3) *Cost of materials.* The materials for which reimbursement is to be made should be adequately specified and should be billed at cost and without the addition of any so-called handling charge or profit. For example, it may be specified that material cost will include only raw materials and fabricated parts en-

tering directly into the products; that purchases made specifically for the contract may be charged at their actual cost; that materials withdrawn from stores may be charged at cost under any recognized method of pricing conforming to sound accounting practices and consistently followed; and that incoming transportation charges may be included. Provision should be made for a reduction in cost of materials for cash and trade discounts, rebates and allowances and the value of resulting scrap, where the amount of such scrap is appreciable.

(4) *Overtime.* In order to prevent excessive overtime and double time a provision having substantially the effect of one of the following should be employed:

(i) Vendor (the person or firm with whom the time and material or labor-hour order is placed) should covenant that the amount of overtime and double time used on the work will be fair and reasonable and will be in accordance with the exigencies of the particular job. (This will support any claims on account of excess overtime developed by an audit.)

(ii) The vendor should specify the maximum amount of overtime and double time, if any, which he anticipates will be required for the job and should agree that this amount cannot be exceeded without the prior written approval of the contracting officer or contractor, as the case may be, placing the order.

(iii) The vendor should agree that no overtime or double time may be used on the work without the prior written approval of the contracting officer or contractor, as the case may be, placing the order.

(5) *Subcontracting by the vendor.* The vendor will not be permitted to derive any profit on account of subcontracting a portion of the work. Where subcontracting is contemplated or is to be permitted, it should be provided that the amount billed on account of such work will neither exceed the amount charged therefor by the subcontractor nor the rates for such work regularly agreed upon between the vendor and the subcontractor. In order to control the amount of subcontracting, provision may be made that the vendor cannot subcontract any portion of the work in excess of a stated percentage without the prior written approval of the contracting officer or contractor, as the case may be, placing the order. Provision should be made that there can be no subcontracting by a vendor at an hourly rate which exceeds the vendor's hourly rate, without the prior written approval of the contracting officer.

(6) *Records.* Provision will be made that the vendor will maintain detailed, complete and accurate accounting records on a job order basis; that the hours of labor will be supported by individual daily job time cards preferably signed by the workers performing the services and in all cases by evidence of actual payment; that material charges will be supported by paid invoices or storeroom requisitions; and that the records will be preserved for a period of at least three years.

(7) *Invoices.* A contractor placing a time and material or labor-hour order should require the vendor to support all invoices by a certificate that the amount billed is correct and just. In this connection, a contractor placing such an order may be required to furnish a supporting certificate that the prices stated in the invoice are fair and reasonable or are not excessive.

(8) *Audit.* Provision should be made that the representatives of the Government and the contractor placing the order, or either of them, will be permitted to inspect and audit the books and records of the vendor and will have the right to determine the correctness and propriety of the costs charged. Provision should also be made that any overcharge found will be promptly refunded.

(9) *Excessive use of unskilled labor.* The vendor may be required to covenant that employees used on the work will on the average be as efficient as the average for the departments of his plant concerned.

(d) *Limiting price.* In any case or class of cases where the chief of the service is of the opinion that the use of a limiting price will be effective and practicable in reducing costs, a provision should be incorporated in such contracts or orders that payment will be made on a time and material basis but not in excess of a stated maximum figure.

(e) *Definite hourly rate.* A definite hourly labor rate must be stated at the time of issuance in all orders intended to be priced on a time and material or labor-hour basis. In the exceptional emergency cases where work must be started before the rate is agreed upon, the complete conforming order must be issued as soon as possible and in any event prior to completion of a substantial portion of the work.

(f) *Audit manual.* Reference to the Manual for Administrative Audit of Time and Material Vendors' Charges, prepared by the Office of the Fiscal Director, will be helpful in the consideration of effective control measures in particular cases. Copies of this Manual may be obtained by addressing a request to the Publication Section, Administrative Division, Office of the Fiscal Director, Headquarters, Army Service Forces, Washington 25, D. C.

§ 802.220 *Standard procurement forms prescribed for use in certain cases.*

(a) The forms specified herein are prescribed for use whenever applicable. Instructions with respect to use and completion of forms will be followed and, unless these regulations provide otherwise, such forms will be used without deviation.

(b) Upon request and justification by the technical service involved, the Procurement Judge Advocate, Headquarters, Army Service Forces, may in particular classes of cases permit deviations from the forms. Such authority will normally be granted only where the forms do not fit particular situations, and in these instances it will be required that the deviations be applied in all like situations.

§ 802.221 *Invitation for bid forms.*

§ 802.221-1 *War Department Standard Procurement Form No. 101; invita-*

tion for bids. This form will be used for procurement by formal advertising of construction or supplies.

§ 802.221-2 *U. S. Standard Form No. 33 (Short form contract).* This form will be used for the procurement of supplies by formal advertising whenever the execution of a long form contract is neither required nor desired.

§ 802.221-3 *War Department Standard Procurement Form No. 107; request for proposal and contractor's proposal.* This form will be used for procurement by negotiation of supplies (excluding construction work) for small amounts where effective competition exists and where the information to be obtained from bidders may ordinarily be confined substantially to the quotation of prices. Whenever the technical service desires to obtain this limited information in the form of a written proposal it will employ either War Department Contract Form No. 5 (§ 813.1317d of this subchapter), if that form is otherwise suitable or Standard Procurement Form No. 107, followed by the execution of a suitable contract form.

§ 802.221-4 *War Department Standard Procurement Form No. 106 and related forms.* These forms will be used for procurement, by negotiation, of supplies other than construction, whenever, in the opinion of the technical service involved, detailed cost or price information should be obtained from bidders as an aid to adequate negotiation. Within the scope of the foregoing rule, each technical service may prescribe more precisely the size and types of procurement for which this form is to be used.

(a) *Detailed instructions as to use of Form No. 106 and related forms—(1) In general.* The use of the related forms with Form No. 106 is discretionary. The procurement office is required to select and specify (within established limits) the data expected. Thus, the procurement office has latitude to use the related forms according to the necessities of particular situations, and may relieve the bidder of the task of compiling information which is not pertinent to the procurement or which is already known to the procurement office.

It is of the utmost importance that no contractor be asked to complete the forms related to W. D. Standard Procurement Form No. 106 with respect to information which will not be pertinent or useful in properly effecting the particular procurement, or which is already on file with the procurement office. Where necessary the information obtained through use of the form may be clarified or amplified through correspondence or personal negotiation. The information submitted in or with Standard Procurement Form No. 106 and related forms will be used as a basis of negotiations with the prospective contractor, in accordance with this part and ASF Manual M-601 and any other instructions that may be in force from time to time.

One copy of the "Instructions for Completing War Department Standard Procurement Form No. 106" should be sent to each contractor along with the necessary number of counterparts of Standard

Procurement Form No. 106. (For sample forms see Part 813 of this subchapter.)

§ 802.222 *Bid and abstract of bid forms.*

§ 802.222-1 *Standard Government instructions to bidders; Construction and supplies (Standard Form No. 22).*

§ 802.222-2 *W. D. Standard Procurement Form No. 103; Bid for construction.*

§ 802.222-3 *W. D. Standard Procurement Form No. 102; Bid for supplies.*

§ 802.222-4 *W. D. Form No. 14; Abstract of bids.*

§ 802.222-5 *W. D. Forms Nos. 29 and 29a; Abstract of bids (long form) and insert.*

§ 802.223 *Newspaper advertising forms.*

§ 802.223-1 *Request for authority to advertise (W. D. Form No. 1).*

§ 802.223-2 *Statement of advertising rates (Standard Form No. 1052).*

§ 802.223-3 *Advertising order (Standard Form No. 1053).*

§ 802.223-4 *Public voucher for advertising—original and memorandum forms (Standard Forms No. 1054, 1054a).*

§ 802.224 *Award forms.*

§ 802.224-1 *Statement and certificate of award (Standard Form No. 1036).*

SUBPART D—PROCUREMENT BY FORMAL ADVERTISING

§ 802.230 *General.*

§ 802.230-1 *Scope of subpart.* This subpart contains a discussion of the principles applicable to formal advertising and the procedures to be followed when procurement is to be effected by formal advertising.

§ 802.230-2 *Statutory basis.* (a) Section 3709, Revised Statutes, (41 U.S.C. 5; ML 1939, sec. 727), provides:

All purchases and contracts for supplies or services in any of the departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same when the public exigencies do not require the immediate delivery of the articles or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold or such services engaged between individuals.

(b) The act of March 2, 1901 (10 U.S.C. 1201; ML 1939, sec. 1928) provides:

* * * That hereafter, except in cases of emergency or where it is impracticable to secure competition, the purchase of all supplies for the use of the various departments and posts of the Army and of the branches of the Army service shall only be made after advertisement, and shall be purchased where the same can be purchased the cheapest, quality and cost of transportation and the interests of the Government considered; * * *

(c) Executive Order 9001, December 27, 1941, authorized the War Department "to enter into contracts and into amendments or modifications of con-

tracts * * * without regard to the provisions of law relating to the making, performance, amendment or modification of contracts." The statutes referred to above have not been repealed; the avoidance of their mandate has been permitted only as an emergency power.

§ 802.230-3 *Policy with respect to formal advertising.* It is hereby declared to be the policy of the War Department that whenever practicable procurement shall be by advertising and that the authority to negotiate contracts granted by Executive Order 9001 shall be exercised only when it is determined that formal advertising procedures would not produce results as favorable as negotiation.

§ 802.230-4 *When formal advertising required.* The chiefs of the technical services shall require procurement by formal advertising of all classes of supplies as to which it is determined that (a) an ample supply of the items and the ingredients thereof is available to meet civilian and military requirements; and (b) there are sufficient producers of such supplies reasonable to assure the receipt of competitive bids.

§ 802.230-5 *Exceptions.* Procurement by formal advertising need not be required if:

- (a) The aggregate cost of all supplies to be purchased under the contract will not exceed \$1,000;
- (b) For personal services, whether the contract for the engaging of such services be entered into with an individual, firm or corporation;
- (c) The public exigency will not admit of the delay incident to formal advertising;
- (d) For proprietary, perishable subsistence items, or other articles or services for which it is impracticable to secure competition;
- (e) For medicines, medical supplies, hospital and surgical supplies, or prosthetic appliances;
- (f) For horses, mules, or other animals;
- (g) For supplies procured for authorized resale;
- (h) For supplies procured and used outside the limits of the United States or its possessions;
- (i) For experimental or developmental work, or for manufacture or purchase of supplies for experimentation or test;
- (j) For scientific and technical apparatus or instruments of precision for specialized laboratory or research work;
- (k) For supplies as to which the chief of the technical service concerned determines that the procurement thereof without advertising is necessary in order to facilitate standardization of military equipment or interchangeability of parts;
- (l) For educational orders; or
- (m) Otherwise authorized by statute, regulations, or the Under Secretary of War to be procured without formal advertising.

§ 802.230-6 *Additional exceptions.* Procurement by formal advertising shall not be required if:

- (a) For supplies as to which the chief of the technical service concerned determines that the character or ingredients

thereof are of such a nature that the public interest would be injured by divulging them; or

(b) For supplies as to which the Under Secretary of War finds that advertising for bids does not produce reasonable prices independently arrived at in open competition.

§ 802.230-7 *Reports of procurement by formal advertising.* The chiefs of the technical services shall report to the Director, Procurement Division, all classes of supplies directed by them to be procured by formal advertising.

§ 802.231 *Invitations for bids.*

§ 802.231-1 *By whom issued.* Invitations for bids will be issued by the contracting officer charged with the procurement of the supplies involved.

§ 802.231-2 *Information to be contained in invitations for bids.* Every invitation for bids will contain the following information:

- (a) A serial number (see § 802.233).
- (b) The date of issue.
- (c) The name and address of the office to which bids will be sent.
- (d) The number of copies of bids which must be submitted.
- (e) The hour and date on which bids will be opened.
- (f) An itemized schedule showing:
 - (1) Item numbers;
 - (2) The kind, quantity and quality of the articles or the nature and extent of the services required (with respect to quality every item on an invitation for bids will refer to one of the specifications indicated in § 802.232 or will contain a description as provided in § 802.232 (g));
 - (3) The place, time and rate of delivery of articles or the place where the services are to be performed and the time allowed for their performance. (If it is not desired to limit bidders in these respects, this may be omitted.)
- (g) Kind of packing required.
- (h) Conditions of inspection.
 - (i) A statement of the alternates, if any, which will be considered in making awards.
 - (j) A statement of any special conditions required or authorized by law or regulations in certain cases. If, for example, bids for the rental of gas cylinders are to be invited, the invitation will contain a statement substantially similar to one of the alternative provisions set forth in § 803.340 of this subchapter.

§ 802.231a *Certificate of OPA compliance.* Every invitation for bids will state that the bidder is required to furnish with his bid a certificate executed in the same manner as the bid, as follows:

I certify that the prices quoted herein are not in excess of any applicable OPA price regulations.

§ 802.231-3 *Information and changes authorized.* Whenever applicable, the following further information and changes are authorized in invitations to bid:

(a) *Discounts.* If the discount provisions contained on the prescribed forms are not suitable, the following changes therein may be made:

- (1) The discount provision on W.D. Standard Procurement Form No. 102

(Form of bid (supply contract)) relating to "10 calendar days," "20 calendar days", etc., may be deleted whenever it is definitely known that final acceptance cannot be accomplished, or that payment cannot be effected within the period of time from date of delivery. In order to take advantage of any discounts offered, this authority will be used sparingly. If, for example, commercial practice for a certain class of material is to use a 10-day discount period, the deletion will not be made. (See AR 35-6200.)

(2) In special cases where a prolonged acceptance test is necessary and the invitations or specifications set a limiting date for acceptance that is more than 20 days after date of delivery, the provision on W. D. Standard Procurement Form No. 102 or U. S. Standard Form No. 33 as to computation of discount time may be changed to read as follows: "Time in connection with the discount offered will be computed from the limiting date set herein for final acceptance." When this change is made the limiting date for final acceptance must be stated in the invitation.

(b) *F. o. b. point.* Whenever preferred transportation rates are available to the Government, invitations for bids should, if practicable, call for delivery f. o. b. point of origin in preference to f. o. b. point of destination.

(c) *Bid bonds.* Whenever it is intended to require that bid bonds with surety or sureties, or other security authorized by law and regulations in lieu of such surety or sureties, shall accompany bids, that fact, the amount of the bid bond required, and the periods to be allowed after the opening of bids for the execution of the contracts and bonds, will be stated in the invitation. The invitation will state also that if certified checks are deposited in lieu of bid bonds, such checks will be drawn to the order of the Treasurer of the United States. (See § 804.406-1 of this subchapter.)

(d) *Performance or payment bond.* If performance and payment bonds or a performance bond only will be required, a clause to that effect indicating the amounts or amount thereof will be included in the invitation. If no bond is to be required the invitation will so state. (See §§ 804.406-2 and 804.406-3 of this subchapter.)

(e) *Liquidated damages.* If liquidated damages are to be imposed for delayed deliveries, a clause covering the conditions thereof including the amount to be assessed for each day performance is delayed beyond the time fixed for deliveries or performance will be included in the invitation. (See § 803.352a of this subchapter.)

(f) *Work or supplies not readily procurable.* When bids are invited for construction work or supplies not readily procurable by purchase against the contractor in the open market, the invitation for bids will contain the following statement:

When not otherwise specified, the bidder must state the least number of calendar days (counting Sundays and holidays) after date of receipt of notice to proceed in which he will complete performance. In stating time, the bidder should make due allowance for probable difficulties which may be encoun-

tered. When the invitation for bids states that time will be a material factor for the purpose of comparing bids, there will be added to each bid other than the one offering to complete in the shortest time an amount equal to the daily liquidated damages named in the invitation for bids multiplied by the number of calendar days that such bidders have named for performance of the work in excess of the days named by the bidder proposing to do the work in the shortest time.

(g) *Bids for partial quantities.* Invitations for bids may provide that bids may be made for any part or all of the quantities of the item or items advertised therein.

(h) *Other optional clauses.* (a) Whenever it is intended to include in the contract any authorized article in place of any article contained in War Department Contract Forms 1 or 2 or in addition to those contained therein, a statement of such alternative or additional article will be included in the invitation to bid.

§ 802.231-4 *Amendments.* Amendments, if issued, will refer to the number, date of issue, and opening date of the original invitation, will clearly indicate the nature of the changes made therein, and will be serially numbered as issued.

§ 802.232 *Specifications.* See AR 850-25, which govern the preparation and adoption of specifications. Every item on an invitation for bids will refer to one of the specifications listed or will contain a description as indicated below.

(a) *Federal specifications.* These specifications usually cover commercial articles used by two or more Federal agencies and their use is mandatory upon all agencies of the Government. Reference thereto will read: "Federal specification -----". The following extract from regulations of the Procurement Division, Treasury Department, applies to all agencies of the War Department and the report required thereby will be attached to the copy of the invitation for bids furnished the Procurement Division, Headquarters, Army Service Forces.

If any executive department finds that for administrative reasons a Federal specification cannot be used to meet its particular or essential needs, it is authorized to use its own purchase specification, but such specification shall include all applicable provisions of the Federal specification, and in those cases where the purchase exceeds \$1,000 a report shall be made to the Procurement Division, Branch of Supply, showing the necessity for deviation from the Federal specification.

(b) *United States Army specifications.* These specifications usually cover articles or services which are peculiar to the military service or which are not covered by Federal specifications, and their use is mandatory upon all agencies of the Army. Reference thereto will read: "United States Army specifications -----". The Index of United States Army, Joint Army-Navy, and Federal Specifications Used by the War Department, revised annually by the War Department, contains a list of the United States Army as well as of the Federal specifications used by the War Department.

(c) *Army-Navy aeronautical specifications.* These specifications, which

cover articles or services peculiar to the needs of the Air Corps and of the Bureau of Aeronautics, Navy Department, are issued by the Army and Navy Munitions Board. These specifications come within the same category as United States Army specifications, being governed by the same regulations wherever applicable and unless otherwise specified. They are identified by the prefix letters "A-N" and reference thereto will read "A-N Aeronautical Specification -----". An index of these specifications is distributed to the Air Corps activities only, but copies of the index and the specifications may be obtained by other War Department activities concerned upon request.

(d) *Tentative specifications.* These specifications usually cover articles, or services which are infrequently purchased by the War Department or which are not yet covered by Federal or United States Army specifications. Reference thereto will read: "(insert arm, service, or activity) tentative specifications -----". They are not published or distributed to other agencies by the agency preparing them but may be obtained on request.

(e) *Navy specifications.* These specifications are similar to United States Army specifications and while their use is not mandatory in the War Department, such use is encouraged in applicable cases and in the absence of other specifications in order to avoid duplication of effort. Chiefs of technical services are authorized to obtain directly from the Navy Department those specifications which are available. Reference thereto will read: "Navy specifications -----". An index of these specifications is not distributed to the Army.

(f) *Joint Army-Navy specifications.* These specifications cover articles or services which are peculiar to military usage, and are common to both the Army and the Navy. Their use is mandatory upon all agencies of the Army and Navy. They are identified by the prefix letters "JAN", and reference thereto will read: "Joint Army-Navy Specifications -----". The Index of United States Army, Joint Army-Navy, and Federal Specifications Used by the War Department, revised annually by the War Department, contains a list of the Joint Army-Navy Specifications as well as the Federal Specifications used by the War Department.

(g) *Description in lieu of specifications.* If the article required is not covered by any specifications and preparation of a tentative specification is considered not justified, a drawing or a description containing all of the essential requirements to be met by the article will be used instead. If, because of technical or involved construction or other sufficient reasons such description cannot be made, the name of one or more makes of the article, including the words "or equal", will be specified so as not to limit competition to the particular makes named. This action is an expedient only and not a normal procedure and will not be taken in large purchases.

(h) *Samples, cuts, catalog descriptions, etc.* In special cases it may be necessary to require bidders to submit samples, cuts, catalog descriptions, etc.,

with their bids, but if a proper specification is available or an adequate description of the article is possible, such requirement will not be included unless necessary to a proper evaluation.

(i) *Distribution of specifications.* United States Army specifications will be distributed in accordance with AR 850-25. A liberal attitude will be taken in complying with requests for specifications from prospective bidders and possible manufacturers of Army supplies, whether for the purpose of broadening the peacetime market or for establishing new sources of supply in case of emergency. It is not practicable to supply complete files or copies of United States Army specifications to private or public reference files. When a request for United States Army specifications must be unfavorably considered, it may be found that Federal specifications will fill the need. The attention of applicants will be invited to the existence of the Federal Standard Stock Catalog, Section IV of which lists Federal specifications, and the current issue of which can be bought from the Superintendent of Documents, Government Printing Office, Washington, D. C. The price of printed specifications is listed therein and the specifications are obtainable in that office at the listed price.

§ 802.233 *Numbering of invitations.* Invitations for bids will be assigned serial numbers in the manner provided for the numbering of contracts, preceded by the letters IFB in parentheses. (As to numbering of contracts, see §§ 803.309 and 803.318.) Thus, the first invitation for bids issued by the Philadelphia Quartermaster Depot would be:

(IFB) W-36-030-qm-1

§ 802.234 *Date specified for opening of bids.* (a) Invitations for bids will, as a rule, allow at least 30 days to intervene between the date of issuance and the date of opening bids. Subject to limitations prescribed by the chief of the technical service concerned, a shorter period may be allowed, but no period of less than 10 days will be designated, except in case of emergency. The existence of such emergency will be determined by the contracting officer.

(b) When such emergency will not permit 10 days to intervene, the copy of the invitation furnished Procurement Division, Headquarters, Army Service Forces, will bear on its face the following certificate and appropriate reasons signed by the contracting officer:

I certify that the date shown hereon for the opening of bids cannot be a later date for the following reasons—

(c) The action indicated in (b) above will be taken even if only a few days can be allowed and only when this is not possible will advertising be dispensed with.

§ 802.235 *Distribution of invitations for bids.*

§ 802.235-1 *Distribution within the War Department.* (a) One copy of every invitation for bids and one copy of every amendment to an invitation for bids will be sent on the date issued to the Procurement Division, Headquarters, Army

Service Forces. Letters of transmittal are not necessary.

(b) Chiefs of technical services may direct such additional distribution as may be considered necessary.

§ 802.235-2 *Distribution to bidders.* (a) Copies of the invitation will be distributed to producers and regular dealers in the supplies required or to those in a position to render the services necessary. The extent of distribution will be determined by the contracting officer, but must be wide enough to assure real competition on all items. Each contracting officer will maintain a bidder's list, subdivided according to types of supplies or services, containing the names and addresses of those persons, firms and corporations to whom invitations should be distributed. Contracting officers will, upon request, add to such lists the names and addresses of persons desirous of receiving copies of invitations for bids. Periodically, those who habitually fail to submit bids after such distribution will be removed from the bidders' list. Invitations will not be distributed to debarred bidders.

(b) A copy of each invitation for bids and each amendment thereof shall be posted upon a bulletin board in the procurement office issuing the same, at the time of the issuance thereof and shall remain posted thereon until the time of opening of bids, but no longer. A bulletin board accessible to the general public shall be maintained in each procurement office solely for the purpose of such postings.

§ 802.236 *Publication of invitations for bids in newspapers.*

§ 802.236-1 *General.* When in the opinion of the officer concerned, the publication of the essential details of invitations for bids in newspapers is desirable in order to secure effective competition, or in view of the quantity, character or value of the supplies or services to be procured, and if time will permit, such advertising may be authorized as indicated below.

§ 802.236-2 *Laws governing.* (a) "No advertisement, notice, or proposal for any Executive Department of the Government, or for any Bureau thereof, or for any office therewith connected shall be published in any newspaper whatever, except in pursuance of a written authority for such publication from the head of such Department; and no bill for any such advertising, or publication, shall be paid, unless there be presented with such bill, a copy of such written authority." (R.S. 3828 (44 U.S.C. 324; M.L., 1939, sec. 1772)). The written authority of the head of the Department required by section 3828, Revised Statutes, for publishing in any newspaper any advertisement, notice, or proposal is required to be given before publication thereof, and a subsequent approval or ratification will not legalize publication without such previous authority.

(b) "Hereafter all advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to

exceed the commercial rates charged to private individuals, with the usual discounts; such rates to be ascertained from sworn statements to be furnished by the proprietors or publishers of the newspapers proposing so to advertise: *Provided*, That all advertising in newspapers since the tenth day of April, eighteen hundred and seventy-seven, shall be audited and paid at like rates; but the heads of the several departments may secure lower terms at special rates whenever the public interest requires it." (Act of June 20, 1878 (20 Stat. 216; 44 U.S.C. 322; M.L., 1939, sec. 1770).)

(c) "All advertising required by existing laws to be done in the District of Columbia by any of the departments of the Government shall be given to one daily and one weekly newspaper of each of the two principal political parties and to one daily and one weekly neutral newspaper. *Provided*, That the rates of compensation for such service shall in no case exceed the regular commercial rate of the newspapers selected; nor shall any advertisement be paid for unless published in accordance with section thirty-eight hundred and twenty-eight of the Revised Statutes." (Sec. 1, act January 21, 1881 (21 Stat. 317; 44 U.S.C. 323; M.L., 1939, sec. 1771).)

(4) See § 811.1188 of this subchapter with respect to newspaper advertising for other purposes.

§ 802.236-3 *Request for authority to advertise.* (a) Requests for authority to advertise in newspapers will be made upon War Department Form No. 1 (Request for authority to advertise) in triplicate and forwarded to the chief of the technical service concerned or the Director, Procurement Division, Headquarters, Army Service Forces, except that in case of great emergency, the nature of which will be stated, authority to advertise may be requested by telegraph. In making application for authority to advertise, officers will specify the newspapers in which it is deemed advantageous to advertise. Due economy both as to the number of newspapers and as to the number of insertions will be observed by all officers whether advertising under special or general authority, no greater number being used in any case than may be necessary to give proper and sufficient public notice.

(b) Special authority authorizes the publication of a given advertisement a specified number of times in a designated newspaper or newspapers. General authority authorizes the publication during a fiscal year, in designated newspapers, of such advertisements for proposals as may be required by the duties of officers engaged in making frequent purchases or contracts. All authority to advertise will be granted to the office, not to the officer.

(c) The chiefs of the technical services and the Director, Procurement Division are hereby delegated the authority to authorize the advertising of invitations for bids in newspapers. This authority may be exercised by the chiefs of the technical services or by one or more employees or officers designated by them within their headquarters office, or in the case of the Army Air Forces by the Commanding General, Army Air Forces or

any employee or officer designated by him within his headquarters office or the headquarters office of a major component command.

§ 802.236-4 *Preparation of advertisements.* (a) Officers will observe conciseness in wording advertisements. The matter, including the headings, will be set up close in one paragraph, without dash or blank lines, leading or display, and in type no larger than that ordinarily used in advertisements. Dates will be omitted from the headings. It is not necessary to publish the conditions imposed upon bidders and contractors; a statement that they will be furnished on application will suffice. Names of titles of signing officers should not appear in advertisements. The following is a sample of advertisement set up in accordance with these requirements:

Bids for fire hose. Washington Quartermaster Depot, Washington, D. C. Sealed bids will be received here until 11 a. m. 28 December 1935, and then opened, for furnishing 700 feet cotton-covered rubber-lined fire hose, 2-inch, in 50-foot sections, with couplings. Further information on application.

(b) Any unnecessary expense to the Government resulting from failure to observe the requirements of this paragraph may be made a charge against the pay of the officer responsible therefor.

§ 802.236-5 *Insertions and limitations thereon.* (a) Ordinarily advertisements will be given six insertions in daily or four in weekly papers. When more than 10 days are to intervene between the date of the first publication and the date of opening, those in the daily newspapers inviting bids will at once be given four consecutive insertions and immediately before the date of opening two consecutive insertions. In case of emergency, advertisements may be given one or more insertions, as time and circumstances permit.

(b) No officer will authorize the publication of an advertisement beyond the morning of the day on which opening of bids is to occur, and no payments will be made for continuing such publication beyond the period authorized.

§ 802.236-6 *Information to be furnished by newspapers.* Newspapers designated for publishing War Department advertisements are required to forward to the office authorizing the advertisement sworn statements of the commercial rates charged by them to individuals, with their usual discounts and of any changes made in the same. These statements will give the size of type used in the advertisements and show whether the charges are made by the inch, line, square, or folio, the rate for the first and subsequent insertions and if by the square or folio. Fractional parts of an inch, square, or folio will be paid for at proportionate rates. Line rates are preferred as they offer fewer opportunities for mistakes and misunderstandings in the settlement of bills.

§ 802.236-7 *Readvertising.* When necessary to readvertise owing to rejection of bids received in accordance with a special authority to advertise, approval must be obtained as in the first instance. The approval of the original authority

to advertise does not confer authority to readvertise.

§ 802.236-8 *Use of forms.* (a) When advertisements are to be published in newspapers the officer ordering the advertisement, will prepare the order in duplicate on Standard Form No. 1053, forward the original to the newspaper, and retain the duplicate. The original signed order must be attached to the voucher, Standard Form No. 1054, when forwarded for audit prior to payment.

(b) Vouchers covering bills for advertising in newspapers must, prior to payment, be submitted to the office authorizing the advertisement, who will accomplish the certificates at the bottom of Standard Form No. 1054. A copy of each page of the publication carrying an insertion of the advertisement, showing the name and date of the paper on the page, will be furnished with the voucher.

§ 802.236-9 *Payment of accounts.* (a) Accounts presented to officers for advertisements which they did not order but which are shown to have been ordered to be published in the newspaper presenting the accounts for payment will be prepared upon the official forms and transmitted through channels, to the Director, Procurement Division, Headquarters, Army Service Forces. The following form of certificate will be used in such cases:

I certify that the annexed advertisement was cut from the newspaper named in the above account, and that it was inserted in that newspaper for the period stated.

(b) A disbursing officer is not authorized to pay bills for newspaper advertising when he is satisfied that the price exceeds the commercial rates charged to private individuals, with the usual discounts, notwithstanding the affidavit of the proprietors of the newspapers to the contrary.

§ 802.236-10 *Unsettled accounts.* In the event of an officer's death or removal, the outstanding bills for advertisements pertaining to his office will be prepared, certified, and forwarded by his successor who is authorized to vary the form to correspond to the facts. Officers changing stations will leave with their successors complete records relative to unsettled accounts for advertising.

§ 802.237 *Information to be furnished prospective bidders.* (a) Information in regard to supplies or services for which bids have been invited will be furnished on application to all persons, firms, or corporations desiring it, except that information concerning classified projects will be furnished only as authorized in AR 380-5.

(b) The estimated cost of the supplies included in an invitation will not be furnished to prospective bidders nor will such information be shown on any copy of the invitation.

(c) Except for classified projects, prospective bidders will be permitted to examine the standard samples at the place where deposited, furnished with or allowed to examine plans and specifications of all works upon which they desire to bid (a deposit may be required, if necessary), and furnished with any information

needed to enable them to act understandingly.

§ 802.238 *Assistance not to be rendered.* No person employed by or serving with the War Department will render assistance to bidders in the preparation of bids.

§ 802.239 *Telegraphic bids and amendments.* Unless specifically authorized in the invitation for bids, telegraphic bids will not be considered, but modifications by telegraph of bids already submitted will be considered if received prior to the hour for opening.

§ 802.240 *Modification or withdrawal of bids.* There is no authority to permit a bidder to modify or withdraw his bid after the time set for opening as provided in the invitation, which time will not be delayed on account of such a request. Any such request by a bidder will be forwarded to the chief of the technical service concerned. If a bidder to whom an award is made refuses to enter into a contract, the contract will be offered to the next lowest responsible bidder and a report of the matter made to the chief of the technical service concerned.

§ 802.241 *Opening of bids.*

§ 802.241-1 *Statutory provision.* Whenever proposals for supplies have been solicited, the parties responding to such solicitations shall be duly notified of the time and place of opening the bids and be permitted to be present, either in person or by attorney, and a record of each bid shall then and there be made. (R.S. 3710 (41 U.S.C. 8; M.L., 1939, sec. 728).)

§ 802.241-2 *Procedure.* (a) All bids received prior to the time of opening will be kept secure and unopened.

(b) The officer whose duty it is to open them will decide when the specified time has arrived and will then personally and publicly open all bids received and read them aloud to the bidders present.

(c) He will also personally number one copy of each bid received serially in the order in which the bids were read, and will retain these numbered copies in his personal possession until the accuracy of the abstract of bids has been verified.

(d) The procedure described in (b) and (c) above may be delegated to an assistant: *Provided*, That contracting officer retains full responsibility for the actions of his subordinate.

(e) Pertinent questions asked at the opening will be fully answered and the examination of bids by properly interested persons will be permitted, provided the bids remain at all times in the personal possession of the officer opening the bids or his superiors, and provided such action does not unduly interfere with the conduct of Government business.

§ 802.242 *Abstracts of bids.*

§ 802.242-1 *When prepared.* For every invitation for bids an abstract of bids form will be prepared as soon as practicable after the bids have been opened or as soon as it is decided to cancel the invitation before opening bids. The most suitable of the forms will be

used for this purpose and the instructions thereon will be followed unless they are in conflict with these regulations.

§ 802.242-2 *How prepared.* The abstract will contain the following entries:

(a) The serial number of the invitation for bids.

(b) The hour and date on which bids were opened.

(c) The office in which bids were opened.

(d) The total number of sheets and the number of each sheet.

(e) If bids have been opened, the items, with the numbers, descriptions, units, and quantities, for which bids were invited to correspond with the invitation for bids. If the descriptions of the items are so long as to make preparation of the abstract burdensome, the descriptions may be omitted, provided a copy of the invitation for bids is attached securely to the abstract.

(f) For every proposal purporting to constitute a bid which was duly received in the manner and at the time prescribed:

(1) The name and address of the bidder and the number entered on his bid.

(2) The prices shown in his bid for the items bid upon. If a price is qualified in any manner or is for an article not strictly in accordance with the specifications or conditions of the invitation, the entry "Alt" will be made alongside the price, and a brief explanatory note will be entered conveniently showing the qualifications in the price or its deviation from the specifications or conditions. If a price is submitted for a unit or a quantity other than that specified, a suitable entry to that effect will be made alongside the price.

(3) The deliveries offered.

(4) The discounts offered.

(g) If no bids are received, the entry "No bids received on this invitation" will be made instead of those shown in (f) above.

(h) If the invitation for bids is canceled before the time set for the opening of bids, all bids received will be returned unopened to the respective bidders immediately with an explanation as to the action taken and the entry "Invitation for bids canceled on (date)" will be made instead of those shown in (f) above. If the envelope shows no return address, it will be destroyed together with its contents.

(i) If bids have been received and opened and no prices have been received on any item, the entry "no bids received on this item" will be made for that item.

(j) After bids have been considered and awards have been made or bids have been rejected in accordance with these regulations, the following entries will be made:

(1) If award has been made on an item in the quantity called for on the invitation, the accepted price will be encircled or checked in colored pencil or ink. If the quantity accepted is different from that called for on the invitation, the accepted quantity will be shown in colored pencil or ink alongside the encircled or checked price.

(2) If an entire bid or bid on any item is rejected and one at a higher price

is accepted, the award will be indicated as in (1) above, such rejected bid or part thereof will be similarly indicated in a different color, and the reason for the rejection, in sufficient detail to permit of intelligent action by higher authority, will be written on the abstract or furnished in the form of a certificate attached thereto. Since the copy of the abstract furnished to the Under Secretary of War is exhibited to the public, care will be exercised in making such explanations on that copy. Information such as debarment, irresponsibility, or apparent collusion of bidders, which might embarrass the War Department if publicized, will always be entered on a separate paper which may be detached in that office.

(3) If equal bids have been received, the award will be indicated as in (1) above and the entry "Award made as directed in § 802.246" will be made in a suitable place if the directions in such paragraph were followed in fact. If not followed, an explanation of the departure therefrom will be included.

(4) If all bids received on all items or all bids received on any item are rejected, the entry "All bids received on this (invitation) (item) have been rejected—(purchase will not be made), (purchase will be readvertised)", or other suitable entry will be made on the abstract.

§ 802.242-3 Certification of abstracts.

(a) The person opening the bids will:

(1) Verify the accuracy of the abstract by comparing it with the numbered copies of the bids retained by him.

(2) Sign the certificate on the abstract that he has personally opened and read all bids and that he has verified the abstract and found it correct.

(b) The person canceling the invitation, making the awards, or rejecting the bids will sign the appropriate certificate on the abstract as to awards or a similar certificate as to the action taken by him.

§ 802.242-4 Bids to be forwarded. Bids will be numbered separately as vouchers to the abstract, but need not be fastened together or to contracts, except to the copy of the contract required to be sent to the General Accounting Office. (See § 802.248-3.)

§ 802.242a Discounts. (a) In determining which of several bids received is the lowest, any discount offered will be deducted from the bid price under the assumption that the discount will be obtained, unless it is known with reasonable certainty that the Government cannot take advantage of the discount within the time specified.

(b) If, when the bids are opened, facts become known which render it necessary to disregard a discount, a full statement of the facts and circumstances and of the reasons for the action taken will be entered upon the abstract of bids, provided that such bid would have been the lowest bid received if the discount offered were taken.

§ 802.243 Rejection of bids—(a) Rejections authorized to be made by the contracting officer. The lowest bid as to price may be rejected by the contracting officer if:

(1) The bid is not responsive, i. e., does not comply with all of the essential conditions of the invitation for bids.

(2) The price is unreasonable.

(3) The bidder is at the time a disqualified bidder. (See § 802.216)

(4) No guaranty has been required and the bidder is unable to furnish satisfactory evidence that he possesses the experience and equipment to perform his contract satisfactorily in accordance with the terms thereof.

(b) Rejections requiring authority of the chief of technical service. (1) Except as provided in (a) above, a low bid will not be rejected without the authority of the chief of the technical service concerned.

(2) When the lowest bid is from a firm which is not a manufacturer or regular dealer and it is considered desirable to reject such bid, request will be made to the chief of the technical service concerned for authority to reject this bid and to authorize the award to the next lowest bidder. In forwarding such requests contracting officers will be careful to verify all statements contained therein which are given as the basis for rejection in order that there may be no just cause for complaint.

§ 802.244 Waiver of irregularities in bids. Minor irregularities in bids should be waived when it is in the interest of the United States to do so.

§ 802.245 Mistakes in bids—(a) When the prices as entered on the bid are the lowest received but as clearly intended are not the lowest received. When a low bid is received which when compared with other bids (1) shows clearly that a bona fide mistake in the amount of such bid has been made, or (2) does not show clearly that a bona fide mistake in the amount of such bid has been made but the low bidder alleges a bona fide mistake and furnishes the purchasing officer with evidence which in the latter's opinion sustains the allegation, such bids should not in any circumstances be accepted. In such cases the matter will be forwarded to the chief of the technical service concerned, except that when there is neither an emergency requiring that the contract be awarded immediately, or circumstances (such as the limited time allowed for acceptance of the erroneous bid or of the next low bid) which does not permit of sufficient delay to submit the case to the chief of the service, if there is no room for doubt as to the price intended in the bid in which the mistake occurred, such bid will be entered on the abstract of bids at the prices clearly intended and the award will be made to the bidder who is then the lowest. A statement of the pertinent facts and any supporting evidence, together with reasons for receiving the intended bid and making the award accordingly, will be attached to and accompany the abstract of bids.

(b) When the prices as entered on the bid are not the lowest received but as clearly intended are the lowest received. When a bid is received which when compared with other bids (1) shows clearly that a bona fide mistake in the amount of such bid has been made, or (2) does

not show clearly that a bona fide mistake in the amount of such bid has been made but the low bidder alleges a mistake, the matter will be forwarded to the chief of the technical service concerned, except that when there is either an emergency requiring that the contract be awarded immediately, or circumstances (such as the limited time allowed for acceptance of the erroneous bid or of the next low bid) which do not permit of sufficient delay to submit the case to the chief of the technical service, if there is no room for doubt as to the price intended in the bid in which the mistake occurred, such bid will be entered on the abstract of bids at the prices clearly intended and the award will be made in the usual manner. A statement of the pertinent facts and supporting evidence, together with reasons for receiving the intended bid and making the award accordingly or the reason for refusing to accept the bid intended as alleged by the bidder, will be attached to and accompany the abstract of bids.

(c) When the lowest acceptable bid received is from a bidder who alleges a mistake but fails to submit satisfactory evidence to support the allegation. (1) When a low bid is received which when compared with other bids does not show clearly that a bona fide mistake in the amount of such bid has been made but the low bidder alleges a mistake yet fails to furnish the purchasing officer with satisfactory evidence to support the mistake claimed, the purchasing officer may, if time does not permit, accept the bid as submitted and inform the bidder that he must perform under the tender and that failure to perform will result in a purchase against the bidder, or if time permits forward the case as provided in (d) below.

(2) If a bidder is compelled to accept a contract over his protest, he should be informed of his right to present to the Comptroller General, after performing the contract, a claim for such amount as he may contend is due in addition to the amount provided in the contract.

(d) When a mistake in bid is forwarded to the chief of the technical service, the following should be clearly shown:

(1) A statement from the bidder declaring that a mistake has been made and showing how the mistake was made and in what the mistake consists.

(2) A statement from the purchasing officer as to when notice of the alleged mistake was received.

(3) A copy of the invitation for bids.

(4) A copy of the bid wherein the mistake is alleged or appears to have been made.

(5) An abstract of bids received.

When such action appears desirable, the chief of the technical service will forward such papers with his recommendation to the Under Secretary of War for appropriate action.

(e) Contracting officers will be extremely careful in allowing a correction in a bid in which a mistake has been made and in making an award in such cases without prior reference to the chief of the technical service concerned. If the matter is questioned later, the bur-

den of justifying his action will rest entirely upon the officer concerned.

§ 802.246 Equal bids. (a) Where two or more bids are equal in all respects, i. e., as to price, cost of transportation, cash discounts, etc., and it is in the interest of the Government, award will be made by lot.

(b) Under the conditions stated in (a) above and when liquidated damages are provided, award will be made to the bidder offering the earliest performance.

(c) Under the conditions stated in (a) above and when the bidders have been requested in the invitation to state the time within which performance will be completed but no liquidated damages are provided, award may be made to the bidder offering the earliest performance or by lot as the interest of the Government may dictate.

(d) When award is made by lot and the information available shows that the product of a particular manufacturer is offered by more than one bidder, a preliminary drawing by lot will be made to ascertain which of the bids will represent that manufacturer in the final drawing to determine the award.

(e) As a result of the preliminary drawing, the field of the bidders for the final drawing is narrowed to one bidder only on the product of each manufacturer. This bidder may be the manufacturer himself or one of the other bidders offering his product, depending upon the results of the preliminary drawing.

(f) In the final drawing there will be included with the names of the bidders drawn in the preliminary drawing the names of any other bidders whose product is offered only by the one bidder.

§ 802.247 Bids received after opening.

(a) A bid received in the mail after the time fixed for opening but before award is made will be considered only when it is shown to the satisfaction of the officer authorized to make the award that the nonarrival on time was due solely to delay in the mails for which the bidder was not responsible.

(b) A record will be made of the exact hour of mailing as shown by the cancellation stamp on all bids received after the time set for opening. This record will be filed in the office of the contracting officer with other papers pertaining to the purchase.

§ 802.248 Distribution of bids and abstracts.

§ 802.248-1 Contracting officer. (a) An original number of all rejected bids and a copy of the abstract of bids will be retained by the contracting officer.

(b) The original number of the accepted bid retained by the contracting officer will be attached to one of the signed copies of the contract or purchase order.

§ 802.248-2 Chief of Technical Service. Abstracts and/or copies of bids will be forwarded to the chief of the technical service concerned only when specifically directed by him or when required by the regulations of the service.

§ 802.248-3 General Accounting Office. (a) Where the lowest bid as to price is accepted, i. e., where the lowest bidder

is determined from the price alone, no offsetting or equalizing elements being for consideration, and when a certificate to that effect is furnished by a responsible administrative officer having personal knowledge of the facts, neither the rejected bids nor an abstract of the bids need be forwarded to the General Accounting Office with the contract. When the abstract of bids is not furnished to that office, the items accepted on any particular bid will be indicated on the original number of the bid which is to be furnished to that office.

(b) In all cases where other than the lowest bid as to price is accepted, there will be furnished the General Accounting Office on Standard Form No. 1036 (Statement and Certificate of Award) a detailed statement giving in full the reasons for the acceptance thereof, together with an abstract of all bids lower than the one accepted.

(c) Except in those cases in which the rejected bids are required by law to be filed in the General Accounting Office, all rejected bids will be retained by the contracting officer and kept available for inspection by fully authorized representatives of the General Accounting Office, and will be forwarded to the latter office upon request therefor when required in individual cases.

(d) The requirements of (a), (b), and (c) above apply not only to contracts but also to less formal agreements.

(e) If a formal contract is made, one set of original number of bids received, together with a copy of the invitation for bids or notice under which they were invited, will be attached to the copy of the contract forwarded to the General Accounting Office.

§ 802.248-4 Disbursing officer. See AR 35-840 for the distribution to be made to disbursing officers.

§ 802.248-5 Procurement Division.

(a) Within three days after bids have been opened and final action taken thereon, or after it is decided to cancel the invitation before opening of bids, a copy of the abstract of bids will be mailed to the Procurement Division, Headquarters, Army Service Forces.

§ 802.248-6 Extra copies of bids. (a) Signed copies of bids not needed to comply with the foregoing requirements may be destroyed.

(b) If all bids are rejected, all but one original number may be destroyed.

§ 802.249 Awards. The award will be made to the lowest responsible bidder complying with the conditions of the invitation for bids, provided his bid is reasonable, and it is to the interest of the United States to accept it.

§ 802.249-1 Authority and procedures for making awards. (a) When a contracting officer has invited and received bids he will, subject to such further approval as may be required, make the award and execute the necessary papers.

(b) When bids are received by an officer not authorized to make the award, the bids and the abstracts of bids will be forwarded to the officer authorized to make the award, with the recommendations of the officer receiving the bids and of intermediate commanders as to the

person to whom the award should be made.

§ 802.250 Correspondence and contact with bidders. (a) Because of the established policy of decentralization of purchasing operations and the fact that the contracting officer has available more information on his purchases than has any other office in the War Department, all contracting officers are charged with the responsibility of making every possible effort to furnish legitimate information to bidders, to make complete response to their proper questions, and to explain to their satisfaction the action which has been taken by the War Department. If it is found impossible to do so, a complete report of the matter will be forwarded to higher authority so that if bidders apply thereto also, prompt action can be taken by it.

(b) **Furnishing of information as to awards made.** (1) Contracting officers will furnish to any bidder or his representative the names of the successful bidders and the prices at which awards were made on items on which the inquirer submitted bids, provided that the number of items and bidders is reasonable and that furnishing such information would not interfere with the work of the office.

(2) If a written request is received from an inquirer who is not a bidder or representative of a bidder and the request is for a reasonable number of items, the contracting officer may furnish the names of the successful bidders and the prices at which awards were made.

(3) In cases where requests require a large amount of work, the inquirer should be informed that a copy of the abstract of bids is on file in the office of the contracting officer and in the office of the Procurement Division, where it may be seen by a representative of his office, if he wishes to call.

(4) The foregoing procedure is not intended to apply to requests for general information as to purchases made over extended periods of time, such as one for information as to the number of shoes purchased during a year and the prices paid therefor. No general procedure is prescribed for such cases.

(c) **Notice of protest against award.** Notice will be given promptly to all bidders affected thereby of any protest or objection against the awarding of a contract to any particular bidder, in order that, if the parties interested so desire, they may take action in their own behalf before further steps are taken in the matter of awarding the contract.

(d) **When all bids are rejected.** When it has been decided to reject all bids and the lowest bid received is in excess of \$25,000 the contracting officer will, if otherwise expedient, inform each bidder of the fact that all bids have been rejected and the reason for such action.

SUBPART E—PROCUREMENT BY NEGOTIATION

§ 802.260 When negotiation employed. All procurement not required to be by formal advertising may be effected by negotiation.

§ 802.261 Solicitations for bids and awards. All solicitations for bids will state that the award of the particular

contract will normally be made to the low bidder but that the War Department reserves the right to negotiate with any bidder or other producer and to reject any and all quotations received. Where the quotations received show the effect of price competition the award will in the usual course be made to the low bidder. If price review and comparison show a fair and reasonable price, no detailed analysis of estimated cost and no further negotiation will be required.

§ 802.261a *Certificate of OPA compliance.* Every solicitation for bids will state that the bidder is required to furnish with his bid a certificate executed in the same manner as the bid, as follows:

I certify that the prices quoted herein are not in excess of any applicable OPA price regulations.

§ 802.262 *Absence of competition.* Where no real price competition is reflected in quotations, or an insufficient number of producers submit bids, or the prices are excessive when checked against previous prices, or the Government's requirements absorb a substantial portion of the capacity of an industry, or such requirements are placed with a sole source (including research and development work), an analysis of the estimated costs and negotiation of the prices will be carried out. Discriminating use of price analysis and negotiation can offset to some extent any tendency toward rigid prices and will protect the Government against excessive prices.

§ 802.263 *Price revision.*

§ 802.263-1 *Price revision articles.* It is recognized that in the reconversion period uncertainties and hazards of various kinds may make it necessary that purchases negotiated on a fixed price basis contain provision for price revision. The articles providing for such revision and the rules governing their use and administration are contained in §§ 803.370 to 803.377-4, inclusive, of this subchapter.

§ 802.263-2 *Incentive contracts.* An article providing for price redetermination upon completion of the contract, with specified rates of sharing in cost savings below and extra costs above a target price, appears in § 803.378-5 of this subchapter. An explanation and an illustration of the operation of the article and the conditions for its use are set out in §§ 803.378-1, 803.378-2, and 803.378-4 of this subchapter.

§ 802.263-3 *Escalation.* Except as and to the extent specifically provided in §§ 803.351-4, 803.351-5 and 803.351-6 of this subchapter, the use in War Department contracts of articles or provisions for escalation of any kind is not authorized. The term "escalation" as used herein means any kind of automatic, self-operating or non-negotiated price revision, whether based on indexes of any character, contractors' costs, OPA maximum prices, or any other standard. The term does not include negotiated price revision under the standard articles therefor set out in §§ 803.370 to 803.377-4, inclusive of this subchapter.

§ 802.264 *Policies on certain special items of cost.*

§ 802.264-1 *Amortization.* (a) Under section 124 of the Internal Revenue Code, contractors who construct or acquire facilities necessary for the war effort are allowed under certain conditions to amortize the cost of them for tax purposes over a period of sixty months instead of the longer period of normal depreciation. This special tax credit was provided by Congress in order to encourage contractors to provide such facilities from their own funds rather than at Government expense. In view of this purpose, it is essential that in negotiating contracts involving the use of such facilities, the expense of such facilities be not passed on to the Government and that the price be fixed on the basis of only normal depreciation on the facilities and not at the accelerated rate of amortization permitted for tax purposes by section 124. In other words, the contractor may not treat the amortization at the accelerated rate as a cost against war contracts, but must provide for the excess over normal depreciation from his normal profit; this the tax credit greatly facilitates by leaving a larger net profit after taxes available for this purpose. Where the contractor desires the contract price to provide for a larger amount of the cost of such facilities, the Government is in effect paying for the facilities to the extent of the additional amount included in the contract. In such cases the contract must state the amount so included in the price and must contain suitable provisions to protect the interests of the Government in the facilities in accordance with § 810.1007 and following, of this subchapter.

(b) It is also essential that any charges for depreciation of facilities theretofore fully amortized by the contractor be disallowed.

§ 802.264-2 *Reconversion and storage.*

(a) In appropriate cases, the cost of converting plants to production for the War Department, including the removal of existing equipment and incidental building alterations, may be included in cost and therefore in the contract price and the contract may provide for payment, on termination of production for the Government, of the costs of removing Government-financed machinery and equipment, and of preparing it for storage and shipment.

(b) The Government will not bear either directly or indirectly, however, any part of the cost of reconverting the contractor's plant to commercial production (including installation of privately-owned machinery and equipment) or the cost of storing such machinery and equipment during the period between conversion and reconversion. This policy applies to all types of contracts, whether facilities contracts, cost-plus-a-fixed-fee contracts or fixed price contracts. It does not prevent giving a contractor, in exceptional cases where fairness so requires, special protection against loss through early termination of the contract.

§ 802.264-3 *Premium wage compensation.* (a) It is now the general policy of the War Department that its contracts

be performed without work on the part of employees of the contractors for which compensation at rates in excess of regular or straight-time wage rates is required to be paid by applicable statutes, Government regulations, collective bargaining agreements, or otherwise. Rates in excess of straight-time wage rates also include premium compensation payable because work is performed on Saturday, Sunday or a holiday, but do not include shift premiums which for the purposes of this paragraph are considered part of straight-time rates. Compensation in excess of regular or straight-time rates should not be recognized as an element of cost in the negotiation of price or, in the case of CPFF contracts, for purposes of reimbursement. Delivery schedules and other relevant contractual terms should, of course, be so established as to avoid the necessity for work for which payment of such compensation is so required.

(b) The general policy stated in paragraph (a) is not intended to be applicable in the case of work necessarily performed beyond straight-time limits by service and maintenance employees. Likewise, if the meeting of required delivery schedules, the shortage of labor, or any other relevant factor necessitates a deviation from the policy in the case of any particular existing or future contract, the chief of the technical service concerned may authorize such deviations notwithstanding the general policy.

(c) It is recognized that the general considerations of policy stated in paragraph (a) do not apply to employees engaged in plant clearance, termination settlement, surplus property disposal, and other readjustment and termination activities. In the case of all such activities, it is emphasized that the importance of expediting settlements and plant clearance may and often will require payment of reasonable overtime and other premium wages.

§ 802.264-4 *State and Federal income taxes.* Income taxes payable to State and Federal Governments are payable out of profits. No allowance for such taxes should be included in the breakdown of estimated costs, nor should the estimated profit be increased because of the existence of such taxes. Price should be negotiated as though such taxes did not exist.

§ 802.264-5 *Interest.* Interest on borrowings is not regarded as a cost for the purpose of pricing contracts. A contractor furnishing his own capital must depend upon his operating profit for a return thereon. To recognize interest as a cost would in effect be putting a contractor operating with borrowed funds in a better position than one financing his own operations.

§ 802.264-6 *Advertising.* Advertising expense may to a reasonable extent, consistent with the contractor's regular practice, be regarded as an element of cost. Care, however, must be taken to assure that the contractor's other business is charged with its full share of advertising expense before any part thereof is charged to War Department business.

§ 802.264-7 *Selling expense.* Selling expense in a moderate amount, and to

the extent that it will contribute to the timely performance of the contract, may be recognized as an item of cost. This statement is not to be construed as authorizing a contractor to charge the Government with the maintenance of his selling organization.

§ 802.265 Purchase analysis.

§ 802.265-1 *Price comparison.* Comparative prices for similar items compiled in accordance with § 802.261 will be made available to contracting officers for use in negotiating new contracts. The prices offered for new contracts should be carefully compared with previous prices for similar items, making allowance for improved methods, rates of production, type of facilities and other factors. Where proposals are obtained from several producers they should be similarly compared with each other.

§ 802.265-2 *Renegotiation information.* The chief of each technical service will insure that contracting officers make regular use of studies and other information compiled by the price adjustment and cost analysis sections and useful in negotiating with contractors, such as data on volume of business, the policies regarding overhead and reserves, rates of profit and other material.

§ 802.265-3 *Cost analysis.* When the prices or cost estimates submitted by a producer are out of line with previous experience or other proposals and use of his facilities is necessary or desirable, an analysis of the contractor's costs should ordinarily be made in order to find the causes of the higher costs or prices. Likewise, where prices or cost estimates of a producer for an unfamiliar item are so low as to indicate mistakes in the estimates, a similar study should be made. Such study and analysis should be limited to the minimum necessary to obtain the required information and should be made with the least possible inconvenience to the producer. (See § 802.263.)

§ 802.265-4 *Check lists.* Orderly and speedy negotiations are facilitated by the use of standard negotiation check lists. Such forms should be designed to indicate the information to be obtained from the contractor and from other sources and the methods to be used in evaluating this material and in arriving at the final contract terms.

§ 802.266 Purchasing by prime contractors.

§ 802.266-1 *Purchasing methods of cost-plus-a-fixed-fee contractors.* Cost-plus-a-fixed-fee contractors should ordinarily make their subcontracts and purchases by negotiation rather than by formal advertising. In connection with such negotiations, they will obtain informal quotations from qualified suppliers whenever feasible, but evidence of formal competition will not be required in connection with such agreements unless the contracting officer directs otherwise.

§ 802.266-2 *Adjustment of prices and terms of subcontracts and purchase orders under cost-plus-a-fixed-fee contracts.* A large number of existing cost-plus-a-fixed-fee contracts contain the following contractual provision: "With

the approval of the Contracting Officer, the Contractor may modify a subcontract or purchase order under this contract to increase the price or extend more favorable terms to the subcontractor." This provision was inserted in cost-plus-a-fixed-fee contracts to permit prime contractors to make adjustments in the price or terms of an outstanding subcontract or purchase order without legal consideration, for the benefit of the supplier. Effective August 18, 1945, contracting officers will not approve the modification or adjustment of a subcontract or purchase order pursuant to this contractual provision, and such contractual provision will not subsequent to that time be inserted in cost-plus-a-fixed-fee contracts.

§ 802.275 *General policies.* The War Department is required to supervise the prices of all supplies and the various elements of cost reflected therein. The following sections deal with the performance of that responsibility by the technical services in those cases where there is not sufficient competition and where, therefore, price analysis is deemed essential as pointed out in § 802.262.

§ 802.276 Price analysis.

§ 802.276-1 *Functions.* The chief of each technical service will maintain within his service appropriate agencies to perform the following price analysis functions:

(a) To analyze and interpret, in accordance with Army Service Forces Manual M-601, "Pricing in War Contracts", price and cost data and all other relevant factors submitted or obtained in connection with proposed contracts, and to assist, wherever possible, in the negotiation of the prices thereunder, to the end that the pricing policies may be made effective in every procurement;

(b) To assist in the preparation of requests for approval of contracts or awards submitted pursuant to § 803.305-4 of this subchapter;

(c) To prepare special price analysis reports for procurement officers;

(d) To compile and submit price records and reports for use in the maintenance of price histories;

(1) Although the preparation of price indexes is discontinued, it is important to maintain a uniform system of price records covering War Department purchases. Each technical service will prepare reports of contract prices of each of a list of selected items procured by the service. These reports need not be submitted to the Procurement Division, Headquarters, Army Service Forces.

(2) In making selection of the items for which price histories are to be kept, the guiding principle will be to obtain sampling which will be useful in gauging price trends and procurement efficiency. They will be used also to determine items for which prices should be negotiated in accordance with § 802.230-3 et seq. Economical expenditure of appropriations requires that the closest attention be given to price trends as indicated by such price histories.

(3) The report will be prepared on the Price Data Report form heretofore used in connection with the preparation of price indexes, or on such other modi-

fied price reporting forms as have been approved by the Director, Procurement Division, Hqs., ASF. In order to obtain uniformity in the price records kept throughout the department, the technical services will use the same Price Data Report form (Reports Control Symbol PDL-9) for all procurement items for which the individual services consider price history records desirable in the interest of sound procurement.

(4) Price histories, cost analyses and similar data will be retained by the contracting officer.

(e) To assist in the review of the pricing policies and practices of such contractors as may be selected for consideration pursuant to Subpart B of Part 812 of this subchapter.

§ 802.276-2 *Sources of data.* In performing their functions, price analysis agencies will make use of the following types of information:

(a) Cost and price data submitted by the contractor in or in connection with War Department Standard Procurement Form No. 3, as well as similar information obtained from other sources.

(b) Engineering cost estimates.

(c) Balance sheets and operating statements.

(d) Renegotiation information, including financial data, production and efficiency records of contractors, and forward pricing agreements of all kinds.

(e) Contract provisions.

(f) Information from other Government agencies, such as the Office of Price Administration.

(g) Available audit reports of Government or private auditors.

(h) Available cost and price information in connection with subcontracts.

(i) Comparative prices, with necessary adjustments on account of factors influencing comparability.

(j) Analyses of the effects of major production and engineering problems on prices and costs.

§ 802.276-3 *Use of price data.* (a) The price and cost data submitted in contractors' proposals and on file in the procurement office and all other factors bearing upon particular prices will be examined and analyzed by the price analysis agency in accordance with ASF Manual M-601. Such examination and analysis will take place prior to and in the course of the negotiations in order that the contracting officers may make the fullest possible use thereof in effectuating the pricing policies. Whenever possible, the price analysis agency should assist the procurement officer in the negotiations, suggesting questions and analyzing and interpreting any additional data submitted by the contractor in the course of the discussion of prices and costs.

(b) The price analysis agencies will prepare full analyses and reports on the comparative prices paid for important items and their components, making proper allowance for differences in the size of the contract, in design, local wage scales, type of facilities, contract terms and other factors. These reports will be in a form usable by procurement officers and price adjustment sections and will contain any recommendations for necessary or desirable action by them.

(c) In making or revising contracts, procurement officers will consult with the appropriate price analysis section and make use of all pertinent price analyses and reports then available.

(d) The price analysis agency will cooperate closely with the price adjustment sections and will make available to them price analyses and reports for use in renegotiation. When renegotiation reveals excessive profits the price analysis agency should immediately make studies of the prices of such contractors.

§ 802.276-4 Corrective action. When price analysis reveals that the prices of comparable items are out of line, the procurement officer directly concerned will immediately initiate measures to discover the reasons. The appropriate measures will depend upon the particular situation. The contractor or his important subcontractors may be required to furnish a breakdown of actual costs based on production experience. When these are inadequate, cost audits or spot checks may be undertaken through the financial analysis section, and studies of purchasing methods may be made in accordance with § 802.264. Unless the facts disclose that differences in price are justified by higher costs and by the policies stated in Subpart C of this part, negotiations will be initiated for appropriate adjustments in contract or subcontract prices.

§ 802.277 Profit analysis. The studies, by the price adjustment sections of each technical service, of the overall costs, profits and financial position of contractors and subcontractors provide valuable data to assist contract negotiations, such as information regarding overhead, reserves, profit margins, volume of business and similar matters. The chief of each technical service will make arrangements to insure that such information is made readily available in useful form for procurement officers in conducting negotiations with such contractors and for price analysis agencies in performing their functions.

§ 802.278 Financial organization.

§ 802.278-1 Organization. Each technical service will maintain appropriate agencies to perform financial analysis functions and to act as fact finding units with respect to costs and profits on its contracts and subcontracts for use in negotiations by contracting officers as well as in renegotiation by price adjustment sections. The chief of each technical service may assign the financial analysis functions to such place in the organization of the service as seems most appropriate to him to permit their effective performance; they need not be placed in the fiscal section of the technical service unless the chief of the service so decides.

§ 802.278-2 Functions. When a financial analysis study of any contractor is made to prepare reports for the price adjustment section, there will also be made such study as seems appropriate in each case to aid procurement officers in future contract negotiations with the contractor. In addition, whenever price analysis indicates that prices or costs of a particular contractor or subcontractor

are out of line and the contracting officer so requests, the financial analysis agency will make necessary studies of any contractor or subcontractor. Such studies will be limited to the extent necessary to obtain the desired information.

§ 802.279 Supervision of prices under subcontracts and purchases.

§ 802.279-1 Policy. The Government is vitally interested in the prices of component parts and materials of the items which it procures. The prices for such component articles are reflected in prices under fixed price prime contracts and are directly reimbursed under fixed-fee contracts. If excessive, such prices encourage inefficiency, inflationary expenditures and excessive profits in the same manner as excessive prime contract prices. Accordingly, the War Department and technical services must also supervise these prices. Because the Government could not attempt to inspect or approve individual purchases under all fixed price and fixed-fee contracts, they must be supervised by more selective methods adapted to varying circumstances.

§ 802.279-2 Methods of supervising purchases under cost-plus-a-fixed-fee contracts. While the cost-plus-a-fixed-fee contractor is responsible for efficient buying, the lack of direct financial incentives for economy makes it essential to supervise its purchasing with respect to prices, quantities and capacity of suppliers. Experience has shown that detailed prior approval of all purchase orders and subcontractors under fixed-fee supply contracts is less efficient for this purpose than more selective methods. Accordingly the following procedure for supervision will be adopted in the case of supply contracts.

(a) The purchasing policies and methods of the cost-plus-a-fixed-fee contractor should be carefully analyzed to determine their adequacy for sound purchasing. This analysis should ascertain (1) whether prices paid are reasonable; (2) whether quantities purchased are proper; (3) whether suppliers and subcontractors are reasonably qualified; (4) whether the purchasing personnel are well-qualified; and (5) whether purchasing procedures are sound and adequate.

(b) If the purchasing policies and methods are adequate with respect to prices, quantities and suppliers and are consistently followed, prior approval of subcontractors and purchase orders by the representatives of the contracting officer need not be required, or may be limited to those of substantial amounts, if regular selective checking is maintained instead.

(c) If the purchasing methods are inadequate in any respect, steps should be taken immediately to require the contractor to correct the deficiency, and if necessary, prior approval of subcontracts and purchase orders by the representative of the contracting officer to check on the propriety of the prices and other terms should be required until the deficiency is corrected.

(d) Periodically a report should be prepared with respect to each important contractor, stating the results of the inspection of the purchases and examination during the preceding period.

(e) If at any time the chief of a technical service finds that the selective method of supervision is inadequate, he may require such further supervision, including prior approval of purchase orders and subcontracts, as he deems necessary.

§ 802.279-3 Methods of supervising purchasing by fixed-price contractors.

(a) In the case of fixed price contracts, the contractor ordinarily has strong incentives to purchase at low prices in order to enhance the profit, but with high excess profits taxes and renegotiation, this incentive can be fully maintained only by keeping the prices under prime contracts close to minimum costs. For this purpose procurement officers must have adequate information on what component parts and materials should cost if well purchased and must know whether the contractor is equipped to obtain the best prices available.

(b) Price analyses in accordance with § 802.261 will supply necessary information. In that connection, the purchasing policies and methods of important fixed price contractors should be analyzed in the manner described in § 802.279-2. When such analysis or the study of the prices paid by different contractors for important component parts and materials reveals deficiencies, they should be called to the attention of the contractor with recommendations for their correction.

(c) Prime contractors should be encouraged to report to the technical service any unsatisfactory subcontract prices.

§ 802.279-4 Personnel. A selective method of control requires the use of well trained and experienced personnel with a knowledge of purchasing methods and industrial costs and prices. Each service should obtain an adequate number of qualified officers or employees to perform these functions.

§ 802.280 Reports of excessive prices. Where in the opinion of the contracting officer or price analysis personnel prices reflect an unwarranted increase over those at which the same or similar supplies have been procured in the past, or where for other reasons it is believed that an investigation as to whether prices comply with OPA regulations is desirable, a report containing all pertinent information shall be submitted, through channels, to the Director, Procurement Division Headquarters, Army Service Forces.

§ 802.281 Coordination. Each technical service may determine the form of organization necessary to perform the foregoing functions within its service and to obtain their essential coordination and their integration with procurement. Thus, in its discretion, a technical service may combine these functions in a single agency or assign them to several separate agencies. Because these various price functions are so closely related, however, it is recommended that even where they are performed by several agencies in any service, all of them should be coordinated and integrated under a single head. Such an agency should supervise within the service all functions relating to contract clearance, negotiation aids, price analysis and supervision, liaison with the Office of Price Administration, renegotiation and price adjustment and price

research. This policy has been followed in Headquarters, Army Service Forces, by the creation within the Procurement Division of an Assistant Director for Price responsible for supervising all of these functions. Creation of a similar agency in each service will facilitate coordination and cooperation between Headquarters and the services.

§ 802.282 *Relation of company pricing to pricing of individual contracts.* Information developed in an overall review with a company pursuant to the company pricing program (see Subpart B of Part 812 of this subchapter) may be useful to contracting officers in connection with the pricing of individual contracts. An agreement reached as the result of a company pricing review may establish pricing policies to be followed by the company in preparing and submitting data upon which the negotiations for the prices of subsequent contracts will be based. In the limited instances described in § 812.1220 (b) (2) of this subchapter the company pricing agreement may establish the prices to be charged to the Government for items to be sold under future contracts. In either of these cases the contracting officer in negotiating the price under a new contract should recognize and give effect to the company pricing agreement in accordance with its terms. Similar effect and recognition should be given in supervising purchases under cost-plus-a-fixed-fee contracts.

SUBPART F—CONTRACTING POLICY REGARDING CONSTRUCTION AND MAINTENANCE WORK

§ 802.285 *General.* Unless within the exceptions set forth in §§ 802.230-4, 802.230-5 and 802.230-6 all construction and maintenance work will be contracted for on a fixed price basis after formal advertising.

§ 802.285-1 *New construction.* Job construction refers to work of a type generally performed by a construction contractor, which is non-recurrent and temporary in the sense that it terminates on the completion of a specific project. In general, this includes such work as the construction of new structures or alterations of like nature to existing structures.

(a) All such new work within the meaning of the above definition will be prosecuted under contract whenever possible.

(b) When such work does not adapt itself to contracting procedure for practical reasons, it will be done by the officer in charge on a hired labor basis.

§ 802.285-2 *Maintenance work.* Maintenance work refers to work which is regular and recurring, and which is continuous in the sense that it is not terminable on the completion of a specific project. This includes such work as repair, adjustment, overhauling, and upkeep of existing structures or installations. The term also includes, as specified in § 809.911-5 of this subchapter, the movement of machinery and installation of equipment, and alteration work incident thereto, performed as an incident of a supply contract. However, in making the determination required by § 809.911-7 of this subchapter, as applied to particu-

lar machinery movement or installation work, each contracting officer concerned will give careful consideration to the desirable objective sought in the over-all policy statement outlined in § 802.285 above.

§ 802.285-3 *Construction or repair in restricted areas.* It is recognized that in restricted areas, because of the various factors involved, it is not often feasible to prosecute the work either under contract or on a hired labor basis. In such instances the work may be done by maintenance forces. However, every effort will be made to insure that this practice is not abused.

§ 802.285-4 *Completion of terminated construction contracts.* The completion of specific construction projects, including original installation of equipment, will be made whenever possible under construction contracts.

(a) When this procedure is not practical, resort will then be made to hired labor.

(b) Completion of specific construction projects by the maintenance forces will be adopted as a last resort, and only when to do otherwise would result in interference or interruption of production, or would demand wasteful retention of a construction supervisory overhead organization.

SUBPART G—PURCHASE ACTION REPORTS

§ 802.290 *General.* (a) This subpart establishes procedures for reporting to the Department of Labor and to the Congress the placement of War Department contracts.

(b) The Procurement Division Headquarters, Army Service Forces, retains authority over reporting procedures established by this subpart, despite decentralization of some of the operating functions.

(c) Reports to the Department of Labor are required by the Walsh-Healey Act (act of June 30, 1936; 49 Stat. 2036; 41 U.S.C. 35-45). Reports to the Congress are required by Public Law 528, 77th Congress.

§ 802.291 *Definitions.*—(a) *Technical service.* Notwithstanding the provisions of § 801.108-5, "technical service" when used in this subpart includes the Army Air Forces, but excludes service commands. "Chief of a technical service" when used in this subpart includes the Commanding General, Army Air Forces.

(b) *Service command.* "Service command" includes the Military District of Washington.

(c) *Functional staff division.* "Functional staff division" includes all organizations in the Army Service Forces so classified in ASF Manual M-301, except Army Exchange Service. Nothing in this subpart shall require the preparation or submission of any report concerning purchase actions by the Army Exchange Service.

(d) *Purchase action.* A "purchase action" is any transaction (including all types of awards, and mandatory orders and requisitions under Part 814 of this subchapter) with any individual, firm, corporation, or Governmental agency not under the jurisdiction of the War Department, involving the purchase or lease

of goods, real estate, or services of every character and description, and usually obligating Government funds; *Provided, however,* That the following are not regarded as purchase actions and therefore are not reportable:

(1) Transactions of the Army Exchange Service (see § 802.291 (c));

(2) Pay of individuals;

(3) Shipping and traveling expenses;

(4) Open-end contracts for services which are subject to open allotment as enumerated in Circular 245 WD 1944 and open-end contracts for the rental or lease of communications, services or facilities;

(5) Indefinite quantity contracts, such as are listed in § 806.605d, which are for the use of more than one technical service or service command. (Delivery or purchase orders issued against such contracts, however, are considered purchase actions and will be reported. See § 802.294 (b));

(6) Delivery or purchase orders placed against a contract executed by another Department of the Government, such as a contract executed by the Procurement Division, Treasury Department;

(7) Supplemental purchase actions which change the cost of a purchase action previously reported. However, if such change increases to more than \$10,000 the value of a purchase action not previously reported, an original report on the whole value of the amended action is required. (See § 802.292 (b).)

(e) *Preliminary contractual agreements.* "Preliminary contractual agreements" as used in this subpart refers to all written agreements which do not obligate War Department funds to the full amount which is expected to be obligated finally. Letter orders, letter purchase orders, letter contracts, and letters of intent are examples of preliminary contractual agreements. (For example, see WD Contract Form No. 7, § 813.1307 of this subchapter.) For manner of reporting see § 802.294-1.

(f) *Open-end contracts.* "Open-end contract" as used in this subpart means a contract in which no final completion date is set and which usually involves recurring charges for goods and services. (For example, contracts for gas, electricity, or water.) For manner of reporting see § 802.294-2.

(g) *Indefinite quantity contracts.* "Indefinite quantity contracts" as used in this subpart, include those contracts which permit deliveries to be made in larger or smaller quantities than stated in the contract, either at the option of the contractor or of the contracting officer, and with or without a written change order modifying the contract. For manner of reporting, see § 802.294-3.

(h) *Date of award.* "Date of award" of a purchase action is the first date upon which the contracting officer gives the contractor either verbal or written notice of the award.

§ 802.292 *Procedures for reporting stations.* Stations under the jurisdiction of chiefs of technical services, directors of functional staff divisions, or commanding generals of service commands, are required to file purchase action reports as provided in §§ 802.292-1 through 802.292-4.

§ 802.292-1 *Stations required to report.* Except as indicated below, a station (whether "exempted" or "non-exempted") which has received a reallocation, allotment, or sub-allotment, and which is within the continental limits of the United States or the Northwest District of the Sixth Service Command will file reports of purchase actions. The exception to this rule is that stations under the jurisdiction of the commanding generals of the Army Ground Forces or of the Defense Commands are not required to file reports of purchase actions.

§ 802.292-2 *Headquarters where reports are to be filed.* The numbering of the contract being reported on determines the headquarters to which the report will be made. A contract whose number contains the letter symbol of a technical service (see § 803.309-2 of this subchapter) will be reported to the chief of that technical service. A contract whose number contains the letter symbol of a service command (see § 803.318b-5 of this subchapter) will be reported to the commanding general of that service command. A contract whose number contains the letter symbol of a functional staff division will be reported to the director of that division.

§ 802.292-3 *Station procedure for purchase action reports.* (a) A Purchase Action Report (WD AGO Form No. 375, Reports Control Symbol PDS-21, see § 802.296-1) will be submitted for every purchase action which involves a total cost (actual or estimated) in excess of \$10,000. The original and four copies (or more if directed by appropriate authority) will be forwarded to the chief of the technical service, director of the functional staff division, or commanding general of the service command (see § 802.292-2) not later than the fifth calendar day following the date of award. (See § 802.291 (h).)

(b) A purchase action involving a total cost of \$10,000 or less will not be reported. However, if such a purchase action is increased by supplemental action to involve a total cost (actual or estimated) in excess of \$10,000, a Purchase Action Report will then be submitted in the manner stated in (a) above. The date for submission of a Purchase Action Report in this circumstance will be not later than the fifth calendar day following the first date on which the contracting officer gives the contractor a written or verbal notice of the increase.

§ 802.292-4 *Station procedure for Monthly Summary Report of purchase actions.* Stations which have submitted Purchase Action Reports to chiefs of technical services and directors of functional staff divisions will summarize these reports monthly. Stations which have submitted Purchase Action Reports to commanding generals of service commands will not summarize them. Monthly Summary Reports to the chiefs of technical services and directors of functional staff summarize these reports monthly. Stations which have divisions (Reports Control Symbol PDS-18, see § 802.296-2) will be submitted within five days after the close of each calendar month. Only one copy will be submitted

unless more are required by appropriate authority. Each Monthly Summary Report will reflect all Purchase Action Reports submitted during the preceding calendar month to the chief of the technical service or the director of the functional staff division, classified by month of award.

§ 802.293 *Procedures for reporting headquarters.*

§ 802.293-1 *Responsibilities of reporting headquarters.* Chiefs of technical services, directors of functional staff divisions, and commanding generals of service commands are charged with the following responsibilities:

(a) Responsibility for assuring compliance by all stations under their jurisdiction with the requirements of §§ 802.292-1 through 802.292-4 of this subpart. This responsibility includes:

(1) Responsibility for controlling by means of a serial numbering system (see § 802.296-1a (b)) the submission of Purchase Action Reports (WD AGO Form 375).

(2) Responsibility for requiring the submission of at least a sufficient number of copies of Purchase Action Reports to accomplish the distribution required by § 802.293-2.

(3) Responsibility for checking by contract number to assure that duplicate records are not received.

(4) Responsibility for reconciling individual Purchase Action Reports submitted by each station with the Monthly Summary Reports submitted by that station. (Does not apply to commanding generals of service commands.)

(b) Responsibility for preparing and forwarding in accordance with §§ 802.293-2 through 802.293-5 all reports required of them.

(c) Responsibility for promptly obtaining and submitting to the Procurement Division, Headquarters, Army Service Forces, upon request, detailed information on specific transactions.

§ 802.293-2 *Headquarters procedure for purchase action reports.* (a) Except as noted in paragraph (b) below, chiefs of technical services, directors of functional staff divisions, and commanding generals of service commands will forward four copies of each Purchase Action Report (WD AGO Form No. 375, Reports Control Symbol PDS-21, see § 802.296-1 to:

Mr. William R. McComb, Deputy Administrator, Department of Labor, Room 1114, Department of Labor Building, Washington 25, D. C. Attention: Mr. A. L. Triolo.

These reports will be forwarded within five calendar days after date of receipt in the reporting headquarters.

(b) Purchase Action Reports bearing on mandatory orders and requisitions pursuant to Part 814 of this subchapter will not be forwarded to the above address. Instead, chiefs of technical services, directors of fundamental staff divisions, and commanding generals of service commands will file all four copies with the Director, Procurement Division, Headquarters, Army Service Forces.

§ 802.293-3 *Headquarters procedure for Monthly Summary Reports.* Chiefs of technical services and directors of

functional staff divisions will submit one copy of the Monthly Summary Report (Reports Control Symbol PDS-18, see § 802.296-2) within ten calendar days after the close of each calendar month to the Commanding General, Army Service Forces, Attention, Director, Procurement Division. Commanding Generals of service commands will not submit such reports. Each Monthly Summary Report submitted by the chief of a technical service or the director of a functional staff division will be reconciled with the Monthly Summary Report submitted by stations reporting to him for that month. (See § 802.292-4.) The purpose of the Monthly Summary Report is to enable the Procurement Division, Headquarters, Army Service Forces, to control purchase action reporting, and to maintain a record of the total value of reported purchase actions as of the month in which they took place, regardless of the month in which they were reported. It is therefore essential to classify purchase actions by month of award.

§ 802.293-4 *Headquarters procedure for Quarterly Report on Procurement.* Within twenty days from the close of each quarter of each fiscal year, chiefs of technical services, directors of functional staff divisions, and commanding generals of service commands will submit to the Commanding General, Army Service Forces, Attention, Director, Procurement Division, one copy of the Quarterly Report on Procurement (Reports Control Symbol PDS-19) (see § 802.296-3). Procurement Division will assemble the Quarterly reports submitted into one report and submit it to Congress pursuant to Public Law 528, 77th Congress.

§ 802.293-5 *Special exemptions from purchase action reporting requirements.* Purchase action reports are designed to serve two reporting functions. Reports to the Department of Labor fulfill the requirements of the Walsh-Healey Act (Act of June 30, 1936; 49 Stat. 2036; 41 U. S. C. 35-45) for contracts subject to that Act. Purchase Action Reports also supply reporting headquarters with the information on contracts over \$150,000 which must be included in the Quarterly Report to Congress. Chiefs of technical services, directors of functional staff divisions, and commanding generals of service commands who do not require Purchase Action Reports in order to prepare the Quarterly Report to Congress may be exempted from filing purchase action reports on contracts not subject to the Walsh-Healey Act. Such exemptions may be granted by the Director, Procurement Division, Headquarters, Army Service Forces, upon request, if the following facts are presented in writing:

(a) The headquarters applying for exemption can and will prepare complete Quarterly Reports to Congress from other sources than Purchase Action Reports. (State sources.)

(b) The headquarters applying for exemption can and will establish procedures to ensure the continued reporting to the Department of Labor of all contracts subject to the Walsh-Healey Act. (Outline proposed procedures.)

§ 802.294 *Special instructions concerning reporting of certain kinds of purchase actions.*

§ 802.294-1 *Preliminary contractual agreements.* (See § 802.291 (e).) (a) Reporting stations will submit Purchase Action Reports (WD AGO Form No. 375, Reports Control Symbol PDS-21) on preliminary contractual agreements no later than the fifth calendar day after the date of award (see § 802.291 (h)) under the following conditions:

(1) If the preliminary contractual agreement obligates funds in an amount (actual or estimated) in excess of \$10,000.

(2) If the preliminary contractual agreement does not obligate funds, but the undertaking of the Government is not conditioned upon funds becoming available, and if the estimated cost under the preliminary contractual agreement exceeds \$10,000.

(b) If the undertaking of the Government under the preliminary contractual agreement is conditioned upon funds becoming available (see, for example, the Letter of Intent which was the subject of the decision of the Comptroller General, issued under date of December 22, 1941; B-21873; 21 Comp Gen 605), a Purchase Action Report will be filed when either the expenditures of the Government under such agreement total in excess of \$10,000 or a final definitive contract (involving an actual or estimated cost in excess of \$10,000) is executed, whichever shall first occur.

§ 802.294-2 *Open-end contracts.* (See § 802.291 (f).) One Purchase Action Report will be filed for each year in which an open-end contract involves expenditures in excess of \$10,000.

(a) If the amount to be expended under an open-end contract for a contract year can be estimated in advance, a purchase action report will be submitted within five calendar days after the date of award (see § 802.291 (h)).

(b) If the amount to be expended under an open-end contract for contract year cannot be estimated in advance, a Purchase Action report will be submitted within five calendar days after the date on which the aggregate expenditures under the contract exceed \$10,000.

§ 802.294-3 *Indefinite quantity contracts.* For the purposes of this subpart, indefinite quantity contracts, as defined in § 802.291 (g) fall into the three following classes:

(a) Those containing special clauses permitting certain percentage variations in the quantities specified in the contracts. Such clauses include the standard clause entitled "Variation in Quantities" (see § 803.329 of this subchapter) which permits the contractor to deliver 10 per cent more or less than the quantity specified in the contract. Such clauses also include those giving the contracting officer a power of change order to increase or decrease within stated percentage limits the quantity of articles called for by the contract (see § 803.329a of this subchapter). In reporting contracts in this class, only the original quantity and value need be stated in the Purchase Action Report.

(b) Those which are for the use of more than one technical service or service command. (Examples listed in § 806.605d of this subchapter.) A con-

tract falling within this class is not regarded as a purchase action (see § 802.291 (d) (5)) and will not be reported. However, a Purchase Action Report will be submitted for each purchase or delivery order executed under such an indefinite quantity contract and involving a total cost (actual or estimated) in excess of \$10,000. Each such purchase or delivery order will be regarded as a separate purchase action and therefore will be reported on a non-cumulative basis without regard to any other such purchase or delivery order issued under the basic contract. For reference purposes, reports of such purchase or delivery orders should always indicate (in space 34) the full contract number of the basic contract.

(c) Any other type of indefinite quantity contract. For the purposes of this subpart, indefinite quantity contracts not falling within paragraphs (a) or (b) above, will be considered and reported as "open-end contracts" (see § 802.294-2).

§ 802.295 *Other instructions on reports—(a) Supply of forms.* (1) WD AGO Form No. 375 (Reports Control Symbol PDS-21) is available upon requisition from Adjutant General Depots, or in case of Army Air Force activities, from the appropriate Air Technical Service Command Depot.

(2) Forms for Monthly Summary reports may be reproduced locally or typed as required.

(3) Forms for the quarterly report on Procurement will be distributed by the Director, Procurement Division, Head-

quarters, Army Service Forces. These forms include blank strips for individual contract reports; header strips for land acquisition; and regular header strips. (See § 802.290-3a). Additional forms are available on request.

(4) Special purchase action report forms. The Director, Procurement Division, Headquarters, Army Service Forces, has authorized the Quartermaster Corps and the Ordnance Department to use special forms of Purchase Action Reports, deviating slightly from the standard WD AGO Form No. 375, set forth in § 802.296-1. Stations under the jurisdiction of the Quartermaster General and those under the Chief of Ordnance will obtain supplies of these special forms as directed by the chief of their respective services. The special forms used in place of WD AGO Form 375 will bear the same Reports Control Symbol, PDS-21.

(b) *Classified reports.* If the purchase action document is classified, the purchase action report will be appropriately labeled with the proper security classification, and transmitted in accordance with current regulations for classified information. Proper entries, however, should be made in all spaces as described in § 802.296-1a.

§ 802.296 *Report forms and related instructions.*

§ 802.296-1 *Purchase Action Report (WD AGO Form No. 375; Reports Control Symbol PDS-21).* [Type in upper right hand corner of form Reports Control Symbol PDS-21].

Reports Control Symbol PDS-21

WAR DEPARTMENT PURCHASE ACTION REPORT		1. Date of report	2. Par. serial No.	
3. From (station, name, and address)		4. Station No. service	5. Contract No. (P.O. No.)	
6. To (Technical Service or Service Command concerned)		7. Type of purchase action	8. Date of award	
9. Contractor (name and address)		10. Contracting as Mfr. Dealer	11. Contractor Code	State
		12. Delivery to start	13. To be completed	
14. Work performed at (name and address)		15. Inspected at	16.	
		17. F. O. B.	18.	
19. Subj. to Walsh-Healey Act Yes No.		20. Title of applicable industry minimum wage determination (Sec'y Labor) if any:		21. Date P. C.—13 sent
22. Item No.	23. Description of Items	24. Number of units	25. Unit cost and unit	26. Total cost (indicate if estimate)
27. Total supplies and services				\$
28. Government facilities provided this contract				\$
29. Total amount of contract				\$

ADDITIONAL INFORMATION REQUIRED FOR CONTRACTS IN EXCESS OF \$50,000

30. Negotiators for government	31. Negotiators for contractor
32. Reason for contractor selection (if no competition obtained)	33. Specification approval (name)
34. Remarks:	
35. Name, grade, or title (type)	36. Signature

(This form supersedes WD AGO 496, 13 December 1943, which will not be used after receipt of this revision.)
WD AGO Form 375
1 Dec. 1944

§ 802.296-1a *Instructions for preparation of Purchase Action Report (WD AGO Form No. 375; Reports Control Symbol PDS-21).* The following numbered instructions apply to the corresponding numbers appearing on the report form reproduced in § 802.296-1.

(1) *Date of report.* This shall be the date upon which the report is prepared.

(2) *Purchase Action Report Serial Number.* This enables the contracting station and the controlling technical service, functional staff division, or service command to reconcile their records. Inasmuch as many stations may originate purchase actions for and report them to more than one technical service, a separate serial number will be used for each such technical service. Each series of serial numbers will begin with Serial Number 1 for each new fiscal year and continue in exact sequence to the end of the fiscal year. No symbol indicating a technical service, functional staff division, or service command need appear as part of the serial number; this will be indicated by the symbol shown in the contract number. (See §§ 803.309 and 803.318b-5 of this subchapter.) Reports made in one fiscal year for purchase actions awarded in a previous fiscal year should bear a serial number in the series of the fiscal year in which awarded.

(3) *From.* Include the name and address of the station preparing the report.

(4) *Station number and service.* This is the first part of the contract number and will include the station number and technical service, functional staff division, or service command symbol appearing on the contract.

(5) *Contract number (P. O. No.).* This is the final part of the contract number and will show the number assigned to the individual contract being reported. If a purchase order is being reported, the number thereof also will be indicated here.

(6) *To.* Indicate the name and address of the technical service, functional staff division, or service command to which the report is being rendered.

(7) *Type of purchase action.* Indicate the type of contract involved. This information should state (a) whether the contract is a formal contract (namely, a contract contained in one instrument, executed by both parties, see § 803.303-2 of this subchapter), purchase order, delivery order (see § 806.614 of this subchapter) or letter order and (b) whether the contract is a fixed price (lump sum) or cost-plus-a-fixed-fee contract. In addition, if the contract is a preliminary contractual agreement (see § 802.291 (e)), so indicate by the word "preliminary". If a mandatory order or requisition pursuant to Part 814 of this sub-

chapter is involved, this should be indicated.

(8) *Date of award.* Indicate the date of award as defined in § 802.291 (h).

(9) *Name and address of contractor.* Insert here the name and address of the contractor as it appears on the contract. If more than one prime contractor is involved, list each one as a split award on separate Purchase Action Reports, and indicate by cross reference the Purchase Action Report Serial Numbers of all such reports.

(10) *Contracting as manufacturer or dealer.* Indicate by checking proper box whether the contractor is acting as a manufacturer or as a dealer.

(11) *Contractor code.* This space will always be left blank.

(12) *Delivery to start.* In most cases this will be the initial delivery date specified in the contract. If the contract is a construction contract, the date work is to begin should be shown. If the contract is for the purchase of real estate, the date of possession should be indicated. Where dates are dependent upon receipt of material, estimated dates are permissible but will be so indicated.

(14) *Work performed at.* Where the work is to be performed by the contractor and at the address indicated in space (9) the words "same as above" will be entered here. However, if the work is to be performed by a different contractor or at a different address, the name and location of the establishment or plant where the work will be performed must be stated. If the work is to be performed at more than one location, list each one and where possible indicate the approximate percentage of work to be performed at each location. If the space provided is insufficient, additional data may be inserted under "Remarks" at space (34). Where the street address as well as the name of the city is shown on the face of the contract, this should be included.

(15) *Inspection point.* The use of this space is optional with the chief of each technical service or commanding general of each service command.

(16) This space will normally be left blank. However, at the discretion of the chief of a technical service or a commanding general of a service command it may be utilized for such information as may be desired.

(17) *F. o. b. point.* Same as (15).

(18) Same as (16).

(19) *Walsh-Healey Act.* Reporting provisions of the Walsh-Healey Act (Act of June 30, 1936; 49 Stat. 2036; 41 U.S.C. 35-45) will, after May 1, 1943, be fulfilled by the proper submission of four copies of W.D., A.G.O. Form No. 375 for each original purchase action. Indicate by appropriate check mark whether or not the contract is subject to that act.

(20) *Title of applicable industry minimum wage determination.* If the purchase action comes under any industry minimum wage determination (see Part 809 of this subchapter), the industry involved should be indicated by name.

(21) *Date P. C.-13 sent.* Enter the date on which the poster, P. C.-13, was sent to the contractor and to the plant locations. (See § 809.919-3 of this subchapter.)

(22) *Item number.* Enter the item number for each item described in space (23). The use of space (22) is optional with the chief of each technical service and the commanding general of each service command.

(23) *Description of items.* Insert complete description of product, service, facilities, project or property. Long lists of items attached to Purchase Action Reports are not required for centralized reporting unless specifically directed by the chief of the technical service or the commanding general of the service command responsible for procurement of the item involved. Where assorted items of like nature are reported, indicate group headings, such as "various tank engine parts", "various knit clothing", etc. Such headings must briefly but specifically state the type of article purchased to enable proper classification by end product. Do not indicate only "Spare parts"; instead, state for example, "Spare parts for trucks except engine parts".

(24) *Number of units.* Enter the number of units for each item described in space (23).

(25) *Unit cost and unit.* State the unit cost and the unit involved. In cases where a varied group of items is shown in space (23), and not detailed, indicate various unit prices in the same manner; either as a price range, i. e., \$4.37 to \$4.69 each, or show the word "various" for a wide range of unit prices, such as on tools.

(26) *Total cost.* If cost is estimated, write "estimated" after amount. For purchase actions involving architect-engineer, management, or similar services only, indicate as the total cost the amount payable to the contractor and chargeable against a War Department appropriation. This applies primarily to cost-plus-a-fixed-fee contracts. If, under such a contract, the contractor is to receive payment of an architect-engineer, management, or similar fee, and in addition is to receive payment for work performed or supplies furnished, each such payment will be shown as a separate item. In cases where both supply items and either land acquisition, plant expansion or tool expansion are involved in a single purchase action, a description and cost of these groups should be shown separately as well as total cost of all groups. If the purchase action is a preliminary contractual agreement (see § 802.291 (e)), the amount for which the War Department is obligated will be shown in space (26) and the estimated full contract price entered in space (23). In all other cases the total cost (actual or estimated) will be shown in space (26).

(27) *Total supplies and services.* Enter the total of all entries in space (26).

(28) *Government facilities provided this contract.* Enter the amount of funds made available for Government facilities under the contract being reported upon. Do not include such amount in the spaces (22) through (27).

(29) *Total amount of contract.* This is a total of spaces (27) and (28).

Spaces (30) through (33) need be filled in only if original value of contract at date of award exceeds \$150,000.

(30) *Negotiator for the Government.* This may or may not be the contracting officer, but in each case the name (s) of the person (s) negotiating the contract for the Government will be shown.

(31) *Negotiator for contractor.* This should include the name (s) of the person (s) representing the contractor in negotiating the contract with the Government.

(32) *Reason for contractor selection.* Enter the principal or controlling reason why the particular contractor was selected for this contract if no competition was obtained. Where the contract was awarded pursuant to competitive bidding, so state by entering the words "competitive bidding", or a similar phrase.

(33) *Specification approval.* Where standard Government specifications, such as Army, Navy, Treasury Procurement, etc., are used, enter only the name of such agency. Where other than standard specifications have been used, enter the name of the person approving the use thereof.

(34) *Remarks.* This space may be used for any pertinent remarks, including data which cannot be entered in the appropriate prior spaces. At the discretion of the chief of each technical service or commanding general of each service command, additional data, such as the monthly scheduled deliveries, may be entered here. Where the Purchase Action Report covers a contract for the acquisition of land and the original value thereof at date of award exceeds \$150,000, the following additional information will be added in this space for use in Quarterly Report on Procurement (see § 802.296-3a (e)); a brief statement as to the location; the intended use of the land; the area; and the assessed value thereof as it appears on the records.)

(35) *Name, grade, or title.* Type the name and grade or title of the person signing the report.

(36) *Signature.* The original of each report should be signed by some responsible officer, normally the contracting officer; copies may bear either typewritten or rubber stamped signatures.

§ 802.296-2 Monthly Summary Report.

Reports Control Symbol PDS-18

MONTHLY SUMMARY REPORT

- (1) To: _____
 (2) From: _____
 (3) Purchase actions not previously reported:
- | Month of award | Value | Number |
|----------------|-------|--------|
| 194 | \$ | |
| 194 | \$ | |
| 194 | \$ | |
| 194 | \$ | |
- (4) Report submitted by _____
 (5) Report submitted by _____
 (6) Report submitted by _____

§ 802.296-2a *Instructions for preparation of Monthly Summary Report.* The Monthly Summary Report will be prepared on the basis of net obligations undertaken during the month, and not on the basis of appropriations authorized. The report will be submitted on an 8" x 10½" sheet. The following numbered instructions apply to the corresponding numbers appearing on the report form set forth in § 802.296-2:

(1) For stations reporting to the chief of a technical service or to a director of a functional staff division: enter the name and address of the technical service or functional staff division to which submitted.

For chiefs of technical services and directors of functional staff divisions: enter "Director, Procurement Division, Headquarters, Army Service Forces."

(2) For stations reporting to a chief of a technical service or director of a functional staff division: enter the name and station number of the reporting station.

For chiefs of technical service and directors of functional staff divisions: enter the name of the technical service or of the functional staff division.

(3) Purchase action reports not previously reported.

(a) Under "Month of Award" indicate the month in which value and number of purchase actions indicated were awarded. As required in §§ 802.292-4 and 802.293-3, all purchase action reports will be classified by month of award (indicated in space (8) on WD AGO Form No. 375). If purchase action reports have been submitted within the required time, only two lines will be needed in this section of the Monthly Summary Report—the first for the month just expired; the second for purchase actions taken in the last five days of the preceding month. However, late purchase action reports of awards made in earlier months will be indicated on succeeding lines, using one line for each month in which any award was made. As many lines as required will be added. Under "Value" enter the sum of the entries in space (29) of all WD AGO Forms 375, and under "Number" enter the count of such forms.

(4) *Signature:* The person responsible for preparation of purchase action reports will sign here.

(5) *Name, grade, or title:* Type the name, and grade or title of person signing the report.

(6) *Date of submission:* Enter the date the report is submitted.

§ 802.296-3 *Quarterly Report on Procurement, Reports Control Symbol PDS-19.*

§ 802.296-3a *Instructions for preparation of Quarterly Report on Procurement.*

(a) The chief of each technical service, director of each functional staff division conducting procurement, and the commanding general of each service command, will submit the Quarterly Report on Procurement. The report will include only those contracts which have an original value at the date of award in excess of \$150,000. No report will be made of any contract with an original value at the date of award of \$150,000 or less, even though the value of such

contract may have been increased by supplements to more than \$150,000. If no contract in excess of \$150,000 has been awarded during the quarterly period, a negative report will be submitted.

(b) A description of each contract included in the Quarterly Report will be typed on an individual strip of paper. (See § 802.295 (a) (3).) The strips will be alphabetized by contractors' names, and grouped into pages. The strips on each page will be overlapped and attached to a "header strip" (see § 802.295 (a) (3)) with crinkly, "draftsman's type" tape. The pages will have no more than 10" (vertically) of printed and typed matter, including the header strips. The space on the header strip providing for a page number will be filled in by Headquarters, Army Service Forces, after all technical service, service command, and division reports have been consolidated; this space will therefore always be left blank on the original reports. At the foot of the last page submitted for each technical service, functional staff division, or service command, will be typed the total reported dollar value of all contracts included in the report.

(c) The report will be forwarded to Director, Procurement Division, Headquarters, Army Service Forces. Here they will be assembled, checked for completeness, reproduced photostatically, and submitted to Congress. The original pages and one copy of the photostatted report will be returned to the submitting headquarters.

(d) The information described below will be submitted for each contract for supply item or services included in the Quarterly Report on Procurement. (The subparagraphs below refer to column headings on the "header strips" for the Quarterly Report; space references below are to the Purchase Action Report Form, WD AGO 375, and to the explanations thereof in § 802.296-1a.)

(1) *Contract number, date, and type of contract.* Full contract number; date of award; and whether contract is fixed price, cost-plus-a-fixed-fee, unit price, letter order, letter purchase order, etc. (Spaces (4), (5), (7) and (8).)

(2) *Item description and quantity.* Description should be brief. (Spaces (23) and (24).)

(3) *Value.* The dollar value of the contract as reported in space (29).

(4) *Name and address of the contractor and his negotiator.* (Spaces (9) and (31).)

(5) *Name of Government negotiator.* (Space (30).)

(6) *Specifications.* (Space (33).)

(7) *Reasons for contractor selection.* (Space (32).)

(e) Special "header strips" are furnished on request for reports of land acquisitions. (See § 802.295 (a) (5).) The information indicated below will be furnished under such strips for each contract for the purchase of land reported in the Quarterly Report. (Subparagraphs below refer to columns in the special header strip for land acquisitions. The space references are to the Purchase Action Report Form WD AGO 375, and to the explanation there in § 802.296-1a.)

(1) *Contract number, date and type of contract.* (Spaces (4), (5), (7) and (8).)

(2) *Location and intended use.* Description should be brief. (Space (34).)

(3) *Value.* (Space (29).)

(4) *Name and address of contractor and negotiator.* (Spaces (9) and (31).)

(5) *Name of Government negotiator.* (Space (30).)

(6) *Area and assessed value.* State area of the land purchased and value as it appears on the records. (Space (34).)

(7) *Reasons for contractor selection.* (Space (32).)

PART 803—CONTRACTS

SUBPART G—GUARANTEES, LOANS AND COMMITMENTS, AND ADVANCE PAYMENTS

Section 803.321-1 is amended to read as follows:

§ 803.321-1 *General policy.* Subject to provisions of §§ 803.319-1 to 803.319-3, inclusive, advance payments will be made to contractors upon their request in all cases where such action will facilitate the prosecution of the war: *Provided*, That after careful scrutiny it is determined that the national interest will be promoted thereby: *And provided*, That the Government will be adequately protected. Advance payments may not, however, be made in connection with any contract entered into after formal advertising.

SUBPART H—MANDATORY AND OPTIONAL CONTRACT PROVISIONS

1. The introductory text in § 803.329a is amended to read as follows:

§ 803.329a *Changes article.* The following article may be used in any supply contract, except one entered into after formal advertising, instead of the article set forth in § 813.1301-2 of this subchapter. This alternative form gives the contracting officer power (a) to increase or decrease within stated percentages the quantity of supplies called for by the contract, or (b) to modify delivery schedules, in addition to such powers as are provided by § 813.1301-2 of this subchapter.

2. Section 803.342 is amended to read as follows:

§ 803.342 *Articles governing statutory renegotiation.* Articles providing for statutory renegotiation will not be included in contracts entered into on or after January 1, 1946.

3. Sections 803.342-1 to 803.342-3, inclusive, are revoked as follows:

§ 803.342-1 [Form I] *Renegotiations pursuant to the Renegotiation Act: Form for general use.* [Revoked]

§ 803.342-2 [Form II] *Same: Forms for contracts exempt under discretionary exemption.* [Revoked]

§ 803.342-3 [Form III] *Same: Form for Supplemental agreements.* [Revoked]

4. Section 803.342a is added as follows:

§ 803.342a *Vinson-Trammell article.* (a) The following article, without deviation, will be included in all contracts for more than \$10,000 for the construction or manufacture of any complete aircraft or any portion thereof except contracts for scientific equipment used for communication, target detection, navigation, or fire control designated by the Secretary of War:

Report and refund of excess profit. (a) This contract shall be deemed to contain all the provisions required by section 14 of the act of April 3, 1939 (53 Stat. 560), section 401 of the act of October 8, 1940 (54 Stat. 1003), the acts referred to therein, and all acts amendatory thereof.

(b) In compliance with said statutes the contractor shall insert in subcontracts specified in said acts either the provisions of this article or the provisions required by said statutes.

(b) Requests for permission to omit the foregoing article by reason of the stated exception shall be forwarded prior to execution, together with the recommendations of the contracting officer and supporting data, for necessary action, to the Director, Procurement Division, Headquarters, Army Service Forces, or to the Special Representative of the Under Secretary of War for the Army Air Forces, as the case may be.

5. Section 803.366 is revoked as follows:
§ 803.366 *Clause concerning discounts to be contained in invitations for bids.* [Revoked]

6. The text of § 803.370-1 is designated paragraph (a) and paragraph (b) is added as follows:

§ 803.370-1 *General policy.* (a) * * *
(b) Price revision articles will not be included in contracts entered into after formal advertising.

[Procurement Reg. 5]

PART 805—FOREIGN PURCHASES

Sections 805.509 to 805.510, inclusive, are revoked, as follows:

§ 805.509 *Purchases from Canadian suppliers.* [Revoked]

§ 805.509-1 *No contracts to be made directly.* [Revoked]

§ 805.509-2 *War Supplies Limited.* [Revoked]

§ 805.509-3 *Purpose of organization of War Supplies Limited.* [Revoked]

§ 805.509-4 *Procedure for negotiating contract.* [Revoked]

§ 805.509-5 *Administration of contract.* [Revoked]

§ 805.509-6 *Contract form.* [Revoked]

§ 805.509-7 *Guarantee by Canadian Government.* [Revoked]

§ 805.509-8 *Excess profits on contracts with War Supplies Limited.* [Revoked]

§ 805.509-9 *Purchases in Canadian Northwest.* [Revoked]

§ 805.510 *War production policy for Canada and the United States.* [Revoked]

[Procurement Reg. 6]

PART 806—INTERBRANCH AND INTERDEPARTMENTAL PURCHASES

SUBPART B—INTERBRANCH PROCUREMENT

The table in § 806.605d is amended to read as follows:

§ 806.605d *Indefinite quantity contracts executed by the Office of the Quartermaster General.* * * *

INDEFINITE QUANTITY CONTRACTS EXECUTED BY OFFICE OF QUARTERMASTER GENERAL

Supply Bulletin No.	Date	Commodity	Contract period	Contract symbol No.	Contractor	Area serviced	Applicability
10-87 Change No. 1.	June 1945 25 August 1945	Books.....	Fiscal year 1946...	See Supply Bulletin No. 10-87		Continental United States and its possessions.	General utilization by the War Department except the Medical Corps.
10-246.....	3 August 1945	Compressed yeast..	Fiscal year 1946....	W 11-009-qm-48937.	Federal Yeast Corp., Colgate Creek-Highlandtown, P. O., Baltimore, Md.	3rd Service Command...	All Branches of the War Department.
				W 11-009-qm-48935..	National Grain Yeast Corps, Belleville, N. J.	1st Service Command...	
				W 11-009-qm-48939..	Standard Brands, Incorporated, 595 Madison Ave., N. Y., N. Y.	4th, 8th and 9th Service Commands.	
				W 11-009-qm-48936..	Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, Mo.	2nd & 7th Service Commands & Military District of Washington.	
				W 11-009-qm-48938..	Red Star Yeast & Products Co., 221 E. Buffalo St., Milwaukee, Wis.	5th & 6th Service Commands.	

INDEFINITE QUANTITY CONTRACTS EXECUTED BY OFFICE OF QUARTERMASTER GENERAL—Continued

Supply Bulletin No.	Date	Commodity	Contract period	Contract symbol No.	Contractor	Area serviced	Applicability
10-96..... Change No. 1.	May 1945..... 20 August 1945	Paper rolls, for cash registers.	Fiscal year 1946....	W 28-021-qm-35736..	The National Cash Register Co., Main & K Sts., Dayton, Ohio.	See Supply Bulletin No. 10-96.	All posts, camps and stations.
10-244.....	January 1946.....	Malt.....	1 January 1946 to 30 June 1946.	W 11-009-qm-26486..	Hazleton Syrup Co., Hazleton, Pa.	1st, 2nd and 3rd Service Commands; Military District of Washington.	All Branches of the War War Department.
				W 11-009-qm-26853..	Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, Mo.	4th Service Command....	
				W 11-009-qm-26855..	Birk Bros. Brewing Co., Webster and Wayne Sts., Chicago, Ill.	6th Service Command....	
				W 11-009-qm-26857..	Standard Brands, Inc., War Prod. & Supply Dept., 605 Madison Ave., New York, N. Y.	5th, 7th, 8th and 9th Service Commands.	
10-193.....	20 August 1945..	Ink, duplicating machine, black 1 lb. cans.	1 September 1945, to 30 June 1946.	W 28-021-qm-43663..	Howard Flint Ink Co., Clark Ave. & M. C. R. R., Detroit 9, Mich.	See Supply Bulletin No. 10-193 and Change No. 1.	All Branches of the War Department.

SUBPART C—INTERDEPARTMENTAL PURCHASES

1. Section 806.606-2 is amended to read as follows:

§ 806.606-2 *Requirement.* Purchases will be made from contracts of the Procurement Division, Treasury Department (General Schedule of Supplies) which are mandatory by the terms of the schedules on the field services of the War Department or when so directed by the chief of the technical service concerned unless the item cannot be furnished under such contracts within the time that the item is required.

2. Section 806.606-4 is amended to read as follows:

§ 806.606-4 *Procedure.* Chiefs of technical services and commanding generals of service commands are responsible for advising contracting officers under their respective jurisdiction as to the terms and conditions of all mandatory General Schedule of Supplies Contracts.

3. The table in § 806.606-7 is amended to read as follows:

§ 806.606-7 *Mandatory schedules.* * * *

4. Former § 806.608-3 is redesignated § 806.608-3a and amended and a new § 806.608-3 is added as follows:

§ 806.608-3 *Schedule of supplies and services.* Schedule of Products made in Federal Penal and Correctional Institutions, 1942 edition, with supplements, is prepared under the direction of Federal Prison Industries, Inc. Requests for copies of this publication should be forwarded through channels to the appropriate chief of technical service.

§ 806.608-3a *General clearance.* The following communication from Federal Prison Industries, Inc., under date of December 18, 1945 (clearance No. C-27930), indicates the cases in which a general clearance has been granted:

The UNDER SECRETARY OF WAR,
Washington 25, D. C.

DEAR SIR:

(1) You are advised that Federal Prison Industries, Inc., is now in position to furnish all articles and services listed in its schedule.

(2) Clearance is hereby given to procure items listed in schedule of products made in Federal Penal and Correctional Institutions in the following cases:

(a) By contractors or contracting officers under cost-plus-a-fixed-fee construction or supply contracts;

(b) By contracting officers under fixed-prices (lump sum) construction or supply contracts, wherein the Government is required to furnish certain Government materials.

(c) When immediate delivery or performance is required by the public exigency.

(d) When suitable second hand, used or surplus property can be procured.

(e) When required in small quantities and for delivery within 10 days

(3) This clearance is to cover purchases made by the War Department only and is effective beginning January 1, 1946, until revoked.

(4) Copy of this clearance should be attached to your contract or voucher when transmitted to the General Accounting Office, or reference made thereon to this clearance number.

Sincerely yours,

FEDERAL PRISON INDUSTRIES,
INC.,

By (Signed) A. H. Conner,
Associate Commissioner.

5. In § 806.608-4 the clearance number is changed to "Clearance No. C-27930".

6. In § 806.609-2 (a) a new item is added as follows:

Description of item	Schedule of supplies	Period
Explosives and blasting accessories.....	4.....	January 1 to December 31, 1946.
Gasoline: Tank wagon and drum deliveries, tank-car, transport-truck and marine deliveries.....	7 and Supps., Regions 1 to 6, incl.	July 1, 1945, to June 30, 1946.
Fuel oil: Tank-wagon and drum deliveries, tank-car, transport-truck, and marine deliveries.....	7 and 14 and Supps., Regions 1 to 6, incl.	July 1, 1945, to June 30, 1946.
Gasoline, Diesel oil and lubricating oil, service-station deliveries.....	7 and 14.....	July 1, 1945, to June 30, 1946.
Brake-band lining.....	8.....	January 15 to June 30, 1946.
Tire chains.....	8.....	July 1, 1945, to June 30, 1946.
Motor-vehicle accessories, etc., item 8-C-5400 (clutch facings) only.....	8 and 66.....	July 1, 1945, to June 30, 1946.
Automotive storage batteries (except Bowers Battery Co.).....	17, Supp. No. 7, Revised.....	March 16 to September 15, 1945 (extended to March 15, 1946).
Telephones and parts.....	17, Supp. No. 6, Revised.....	March 1 to August 31, 1944 (extended to February 28, 1946).
Electric lamps.....	17, Supp. No. 3.....	September 1, 1944, to August 31, 1945 (extended to August 31, 1946).
Wood furniture.....	26, Part I.....	January 1 to December 31, 1946.
Steel furniture.....	26, Part II, Revised.....	January 1 to December 31, 1942 (In effect until December 31, 1946).
Floor and window coverings.....	27, Revised.....	October 1, 1945, to September 30, 1946.
Books (including Encyclopedia Britannica).....	35.....	December 1, 1945, to November 30, 1946.
Machine tools (only the following items: 40-M-9-100, and 40-P-22 to 40-P-37, incl.).....	40.....	September 1, 1945, to August 31, 1946.
Woodworking saws.....	40.....	July 1, 1945, to June 30, 1946.
Solvents.....	51.....	July 1, 1945, to June 30, 1946.
Paper drinking cups.....	53.....	July 1, 1944, to June 30, 1945 (extended to June 30, 1946).
Office equipment.....	54.....	July 1, 1944, to June 30, 1945 (extended to June 30, 1946).
Offset duplicating supplies, etc.....	54.....	July 1, 1945, to June 30, 1946.
Typewriters.....	54.....	July 1, 1945, to June 30, 1946.
Portable drinking fountains.....	63.....	March 1, 1945, to February 28, 1946.
Feed and forage (applicable to certain D. C. installations only).....	67.....	February 1 to May 31, 1946.
Seed (applicable to certain D. C. installations only).....	67.....	November 20, 1945, to November 19, 1946.
Airplane tires and tubes.....	83, Revised.....	April 24 to June 30, 1942 (extended to March 31, 1946).
Consolidated public utilities contracts in Baltimore, Md.; New York, N. Y.; and Philadelphia, Pa.	101 (Electric service)..... 105 (Gas service).....	Effective December 1, 1944 and thereafter until further notice.
Recording and transcription service.....	103, Supp. No. 2, Revised.....	September 1, 1944 to August 31, 1945 (extended to February 28, 1946).

NOTE: (1) Some of the schedules listed above are mandatory only upon some of the activities of the War Department. In case of doubt as to whether it is mandatory that a particular item be procured under a schedule, the schedule itself should be consulted and provisions of the schedule should be regarded as controlling.

(2) Attention is called to the provisions of § 811.1187 et seq., as to restrictions concerning local purchases and the purchases of restricted or prohibited items. Such restrictions apply to items, even though they may be listed on the General Schedule of Supplies.

§ 806.609-2 Envelopes authorized for supply to the military service. (a) * * *

Item No.	Description
424-----	5% by 8 1/2 inches, Kraft, open side, window (for bills of lading).

[Procurement Reg. 11]

PART 811—MISCELLANEOUS PURCHASE INSTRUCTIONS

SUBPART H—MISCELLANEOUS MATTERS

1. Sections 811.1180-1 and 811.1180-2 are amended and §§ 811.1180-3 and 811.1180-4 are revoked as follows:

§ 811.1180-1 *General*. The policies with respect to discounts set forth in § 802.242a are hereby made applicable to purchases by negotiation.

§ 811.1180-2 *Fiscal aspects of discounts*. Where discounts are involved the originals and copies of the purchase instruments will be stamped—"Discount—Expedite" by the initiating office and the discount terms shown thereon underscored or circled in red to invite attention of all concerned to the possible priority status of the instrument and allied document. For fiscal aspects of cash discounts, see AR 35-6200.

§ 811.1180-3 *Ratification of past action*. [Revoked]

§ 811.1180-4 *Fiscal aspects of discounts*. [Revoked]

2. Section 811.1188 is amended; a new § 811.1188-1 is added; former § 811.1188-1 is redesignated § 811.1188-2; former § 811.1188-2 is redesignated § 811.1188-3 and amended; and former § 811.1188-3 is revoked, as follows:

§ 811.1188 *Advertising in newspapers*.

§ 811.1188-1 *General*. See § 802.236-3 (c) with respect to advertising of invitation for bids.

§ 811.1188-3 *Delegation of authority*. (a) The responsibility for authorizing advertising has been assigned by the Secretary of War to the Under Secretary of War (see § 801.107-3). Pursuant to Section V, Circular 181, War Department, June 10, 1942, this responsibility was further delegated "subject to the direction of the Under Secretary of War, to the Commanding General, Army Air Forces, so far as [it relates] to supplies or equipment peculiar to the Army Air Forces; and subject to the same direction, so far as [it relates] to all other supplies and equipment, to the Commanding General, Services of Supply, or to such person or persons as they may designate." (See also § 801.107-5.)

(b) The authority so delegated is hereby further delegated to the Director, Procurement Division, and the Director, Readjustment Division, Headquarters, Army Service Forces, with respect to their respective responsibilities and functions.

[Procurement Reg. 12]

PART 812—RENEGOTIATION AND PRICE ADJUSTMENT

SUBPART H—AUDITS AND INSPECTIONS UNDER TITLE XIII OF THE SECOND WAR POWERS ACT

Paragraph (a) of § 812.1263 is amended to read as follows:

§ 812.1263 *Preliminary steps before audit or subpoena*. (a) No audit is to be made without first advising the Civilian Production Administration. Communications on this subject should be addressed to Chief, Contract Review Branch, Procurement Policy Division, Civilian Production Administration, 4th and Independence Avenue, S. W., Washington 25, D. C. It is the intent of this notification to prevent conflict and duplication of audit with other Departments. Approval from the Civilian Production Administration should therefore be obtained before proceeding. When the issuance of a subpoena is a step in the commencement of an audit, such approval to commence the audit will be obtained from the Civilian Production Administration before issuing the subpoena.

SUBPART I—MANDATORY PRICING AND REPRICING OF ARTICLES AND SERVICES

Subpart I is amended to read as follows:

§ 812.1270 *Statutory basis for mandatory pricing and repricing*. (a) Section 801 of Title VIII of the Revenue Act of 1943 (58 Stat. 92; 50 U.S.C. App. 1192) ("Repricing of War Contracts") provides as follows:

(a) As used in this section the terms "Department," "Secretary," and "article" shall have the same meanings as in subsection (a) of the Renegotiation Act. [See Revenue Act of 1943, sec. 701; see § 812.1201.]

(b) When the Secretary of a Department deems that the price of any article or service of any kind, which is required by his Department or directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with his Department or of any subcontract thereunder, is unreasonable or unfair, the Secretary may require the person furnishing or offering to furnish such article or service to negotiate to fix a fair and reasonable price therefor. If such person refuses to agree to a price for such article or service which the Secretary considers fair and reasonable, the Secretary by order may fix the price payable to such person for furnishing such article or service after the effective date of the order, whether under existing agreements or otherwise. The order may prescribe the period during which the price so fixed shall be effective and such other terms and conditions as the Secretary deems appropriate.

(c) Any person aggrieved by an order fixing a price under this section may sue the United States in any appropriate court. In such suit, such person shall be entitled to recover from the United States the amount of any difference between (1) fair and just compensation for the article and services furnished under the terms of the order and (2) the price fixed for such articles and services by the order; but if the prices so fixed by the order are found to exceed fair and just compensation for such articles and services, such person shall be liable to the United States in such suit for the amount of this excess. Any such suit shall be brought within six months after the order by the Secretary on which it is based, or after the expiration of the period or periods specified in such order, whichever last occurs. Such a suit shall not stay the order involved.

(d) Whenever any person wilfully refuses or wilfully fails to furnish any such articles or services at the price fixed by an order of the Secretary in accordance with this section, the President shall have power to take immediate possession of the plant or plants of such person and to operate them in accordance

with Section 9 of the Selective Training and Service Act of 1940 as amended.

(e) The authority and discretion herein conferred upon the Secretary of each Department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his Department, or in any other Department with the consent of the Secretary of that Department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.

(f) Every purchase order or agreement, or contract to make or furnish any article or service of any kind, which is required by a Department or directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with such Department or of any subcontract thereunder, shall, if made thirty days or more after the date of the enactment of this Act, be deemed to contain a provision under which the person making or furnishing such article or service agrees that notwithstanding other provisions of the purchase order, agreement, or contract, he shall be entitled to receive for such article or service only the fair and just compensation provided for in subsection (c).

(b) Authority to reprice under section 801 does not exist with respect to any contract or subcontract made after December 31, 1945.

§ 812.1271 *Requests for exercise of authority by the Under Secretary of War*. The Secretary of War has assigned and delegated all of the powers, functions, duties and discretion conferred upon him by section 801 of the Revenue Act of 1943 to the Under Secretary of War. Former delegations by the Under Secretary of War of such powers, functions, duties and discretion have been rescinded, as of January 1, 1946. If the chief of any technical service believes that the exercise of authority under section 801 is desirable in any particular case with respect to a contract or subcontract entered into on or before December 31, 1945, he shall forward his recommendations therefor to the Under Secretary of War through the Director, Procurement Division, Headquarters, Army Service Forces. Such recommendations shall be accompanied by a full statement of all pertinent information clearly showing the need in the particular case for the requested exercise of authority.

APPENDIX

1. In the list in paragraph (1) of RR 841 under § 812.1290-2 the items "Mesothorium", "Rare earth products * * *" "Thorium nitrate" and "Vermiculite ore * * *" are added in alphabetical order and "Titanium bearing ores * * *" is amended to read as follows:

§ 812.1290-2 *Interpretation and application of the mandatory exemption relating to contracts for certain raw materials and agricultural commodities*. * * *

RR 841 provides as follows:

841. *Raw material exemption*. * * *

(1) * * *
Mesothorium.

* * *
Rare earth products: didymium (neodymium) carbonate; lanthanum oxide; neodymium oxalate, rare earth chloride, technical; rare earth nitrate.

* * *
Thorium nitrate.

Titanium-bearing ores and concentrates, including ilmenite and rutile; titanium oxide; ferro-titanium; ferro carbon titanium; titanium potassium oxalate.

Vermiculite ore, crude, crushed and expanded.

2. In § 812.1291-2 (b) a new RR 842.6 is added and former RR 842.6 and 842.7 are redesignated 842.7 and 842.8 and amended as follows:

§ 812.1291-2 *Discretionary exemption relating to contracts and subcontracts for profits determinable when price established; real estate, public utilities, perishable goods.*

(b) RR 842 provides as follows:

842.6 *Fiscal years ending after December 31, 1944.* Pursuant to subsection (1) (4) of the Renegotiation Act of 1943 (including subsections (1) (4) (B) and (1) (4) (F)), the War Contracts Price Adjustment Board has exempted from renegotiation amounts received or accrued during fiscal years ending after December 31, 1944 under the following classes and types of contracts and subcontracts:

- (a) Contracts and subcontracts with public utilities for the delivery of electric power,
- (b) Contracts and subcontracts with public utilities for the delivery of gas,
- (c) Contracts and subcontracts with public utilities for the furnishing of water, steam or the removal of sewage.

842.7 *Subcontracts.* Pursuant to subsection (1) (4) of the Renegotiation Act of 1943 (including subsection (1) (4) (B) and (1) (4) (F)) the following classes and types of contracts and subcontracts are exempt from all of the provisions of the Renegotiation Act of 1943.

(1) Subcontracts under any contracts or subcontracts exempted pursuant to paragraphs 842.1 through 842.6 inclusive.

842.8 *Scope of exemptions.* All of the exemptions made under paragraphs 842.1 through 842.7, inclusive, apply to contracts and subcontracts of the specified classes and types, whether heretofore or hereafter made or performed, and whether or not they contain renegotiation provisions.

3. In § 812.1291-3 paragraphs (1) (c) and (d) of RR 845.2 and RR 845.3 are added as follows:

§ 812.1291-3 *Discretionary exemptions relating to contracts and subcontracts for standard commercial articles.*

RR 845 provides as follows:

845.2 *Fiscal years ending after June 30, 1944 and prior to July 1, 1945.* (1)

(c) Textile bags (made of burlap or cotton).

(d) Leather transmission belting, mechanical and textile leathers and mechanical leather packings.

845.3 *Fiscal Years Ending After June 30, 1945.* (1) Pursuant to the authority given to the War Contracts Price Adjustment Board by subsection (1) (4) of the Renegotiation Act of 1943, the Board, under the provisions of subsection (1) (4) (D) of the 1943 Act, has exempted from renegotiation amounts received or accrued during fiscal years ending after June 30, 1945 under contracts or subcontracts for the making or furnishing of the following articles:

(a) Iron scrap and steel scrap; non-ferrous metal scrap; woolen waste, including woolen rags and clips, new and old; scrap rubber; waste paper; cotton or linen rags, including old bagging and old rope; and textile waste; sold by dealers or brokers.

(Comment: The exemption of these articles as standard commercial articles applies only to dealers and brokers in these articles and is not to be construed as affecting, in any way, users of these articles (in particular, manufacturers who use these articles), nor does it affect manufacturers who may produce and sell these articles as a by-product in the course of their operation. Neither does the exemption over sales of these articles in any form other than as scrap or waste).

(b) Reserved.

(c) Textile bags (made of burlap or cotton).

(d) Reserved.

(e) Paper of the following types and grades, sold by paper mills: Groundwood and free sheet uncoated and coated book papers (including but not limited to free sheet and ground wood offset, envelope and tablet papers); Mimeograph and duplicating (both ground wood and free sheet); Bond, writing and ledger, including opaque circular, Manifold and onion skin; Cover and text; Index and Bristol; Map paper (except wet-strength map paper); Post card paper; Blue print base stock.

(f) Paper and paper products sold by merchants.

(Comment: This exemption does not apply to sales of paper or paper products which have been manufactured, converted or processed by the seller or by any person under the control of or controlling or under common control with the seller.)

- (g) Ready mixed concrete.
- (h) Portland cement.
- (i) Reserved.
- (j) Quick and hydrated lime.
- (k) Dead-burned dolomite.
- (l) Dead-burned magnesite made from dolomite stone, seawater, or brine.

[Procurement Reg. 13]

PART 813—FORMS OF CONTRACTS

Sections 813.1335, 813.1336, and 813.1337 are added as follows:

§ 813.1335 *W. D. Standard Procurement Form No. 101.*

Budget Bureau No. 49-R271
Approval expires July 31, 1946

Serial number

WAR DEPARTMENT INVITATION FOR BIDS (Construction or Supply)

Agency Address
Date

1. Sealed bids in duplicate, triplicate, etc. will be received in this office until

194 at M., and then publicly opened for furnishing:

2. Envelopes containing bids must be sealed, marked and addressed as follows:

Bid for To be opened

Bidder

Address of bidder

Name of purchasing agency

Address of purchasing agency

3. Bids must be submitted upon War Department Standard Procurement Form No. 101. The successful bidder will be required to execute contract form designated as amended to date of the proposal, including (a) all applicable provisions required by Federal law, Executive Order, and War Department Procurement Regulations, and (b) the following additional clauses:

4. Guarantee will be required with each bid, as follows:

5. The contract will contain provision for the following as indicated:

- (a) Performance bond:
- (b) Liquidated damages:
- (c) Partial payments:
- (d) Patents:

6. Where copies of plans are requested, a deposit of \$ will be required to insure their return.

7. The right is reserved, as the interest of the Government may require, to reject any and all bids, to waive any informality in bids received, and to accept or reject any items of any bid unless qualified by specific limitation.

NOTE: See Standard Government Instructions to Bidders, and copy of form of contract, Bid Bond and Performance Bond, which may be obtained upon application.

§ 813.1336 *W. D. Standard Procurement Form No. 102.*

Budget Bureau No. 49-R272
Approval expires July 31, 1946

WAR DEPARTMENT

FORM OF BID

(Supply Contract)

Opening Date for this Bid

To M., 19
Place
Date

In compliance with your invitation for bids to furnish materials and supplies listed on the reverse hereof or on the accompanying schedules, numbered: the undersigned,

a corporation organized and existing under the laws of the State of

a partnership consisting of an individual trading as

of the city of hereby proposes to furnish, within the time specified, the materials and supplies at the prices stated opposite the respective items listed on the schedules and agrees upon receipt of written notice of the

acceptance of this bid within days (60 days if no shorter period be specified) after the date of opening of the bids, to execute, if required, the standard form of Contract described in the invitation for bids dated

in accordance with the bid as accepted, and to give bond, if required, with good and sufficient surety or sureties, for the faithful performance of the contract, within 10 days after the prescribed forms are presented for signature.

Discount will be allowed for prompt payment as follows: 10 calendar days percent; 20 calendar days percent; 30 calendar days percent; or as stated in the schedules.

(Time will be computed from date of the delivery of the supplies to carrier when final inspection and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when final inspection and acceptance are at those points, or from date correct bill or voucher properly certified

by the contractor is received if the latter date is later than the date of delivery.)

(Full name of bidder)

(Witness to signature)

NOTE: See Standard Government Instructions to Bidders and copy of the standard form of Contract, Bid Bond, and Performance Bond, which may be obtained upon application.

To insure prompt payment bills should be certified as follows: "I certify that the above bill is correct and just and that payment therefor has not been received."

§ 813.1337 W. D. Standard Procurement Form No. 103.

Budget Bureau No. 49-R273
Approval expires July 31, 1946

WAR DEPARTMENT

FORM OF BID

(Construction Contract)

Opening Date for this Bid

_____, M. _____, 19____

(Place) _____

(Date) _____

To _____

In compliance with your invitation for bids dated and subject to all the conditions thereof, the undersigned _____ a corporation organized and existing under the laws of the State of _____ a partnership consisting of _____

or an individual trading as _____

of the city of _____ hereby proposes to furnish all labor and materials and perform all work required for _____

in strict accordance with the specifications, schedules, and drawings, for the consideration of _____

The undersigned agrees, upon receipt of written notice of the acceptance of this bid within _____ days (60 days if no shorter period be specified) after the date of opening of the bids, to execute the standard form of Contract described in the invitation for bids dated _____, 19____, in accordance with the bid as accepted, and give bond, if required, with good and sufficient surety, or sureties, for the faithful performance of the contract, within 10 days after the prescribed forms are presented for signature.

Performance will begin within _____ calendar days after date of receipt of notice to proceed and will be completed within _____ calendar days from that date.

By _____

(Business address)

NOTE: See Standard Government Instructions to Bidders, and copy of the standard form of Contract, Bid Bond, and Performance Bond, which may be obtained upon application.

NOTE: W. D. Standard Procurement Forms Nos. 106 and 107. War Department Standard Procurement Forms Nos. 106 and 107 (referred to in PR 221) will replace Standard Procurement Forms Nos. 3 and 4. The new forms, which are presently being considered by the technical services, will be issued in the near future under §§ 813.1338 and 813.1339.

[Procurement Reg. 14]

PART 814—REQUISITIONING AND MANDATORY ORDERS

Part 814 is revised as follows:

SUBPART A—REQUISITIONING OF PERSONAL PROPERTY

- Sec.
- 814.1401 Authority to requisition.
- 814.1402 Statutory authority to requisition property.
- 814.1403 Statutory obligation to pay fair and just compensation.
- 814.1404 Return of requisitioned property to former owner under certain conditions.
- 814.1405 Disposition of proceeds from property requisitioned and sold or disposed of under 1940 Act.
- 814.1406 Expiration date of Requisitioning Acts.
- 814.1407 Requests for exercise of requisitioning authority by the Under Secretary of War.
- 814.1408 Processing of requisitioning proceedings initiated prior to January 1, 1946.
- 814.1409 Scope of subpart.

SUBPART B—MANDATORY ORDERS

- 814.1450 Authority to place mandatory orders.
- 814.1451 Requests for placement of mandatory orders by the Under Secretary of War.

SUBPART A—REQUISITIONING OF PERSONAL PROPERTY

§ 814.1401 *Authority to requisition.* Authority to requisition personal property is conferred under (a) the act of October 10, 1940 (54 Stat. 1090; 50 U.S.C. App. 711-713), as amended by the act of July 2, 1942 (56 Stat. 468), by the act of June 28, 1944 (58 Stat. 625), and by the act of June 30, 1945 (Public Law 101-79th Congress); (b) the act of October 16, 1941 (55 Stat. 742; 50 U.S.C. App. 721-724), as amended by the act of March 27, 1942 (56 Stat. 181), by the act of June 30, 1943 (57 Stat. 271), by the act of June 28, 1944 (58 Stat. 624), and by the act of June 30, 1945 (Public Law 102-79th Congress); and (c) Executive Orders Nos. 8942 (6 F.R. 5909), 9024 (7 F.R. 329), 9040 (7 F.R. 527), 9138 (7 F.R. 2919), 9280 (7 F.R. 10179), 9294 (8 F.R. 221), 9322 (8 F.R. 3807) and 9334 (8 F.R. 5423). By such Executive orders the President delegated to various persons, including the Secretary of War, the power to initiate requisitions under the act. The Secretary of War, by Order dated December 11, 1941, assigned to the Under Secretary of War the functions, powers and duties so delegated to him. As a result of such delegation and assignment, the Under Secretary of War makes final determination as to the existence of statutory authority to requisition property desired to be requisitioned by the War Department and, if the Proposal to requisition and the proposed disposal of the property is approved by the Army and Navy Munitions Board and by or on behalf of the Chairman of the Civilian Production Administration, the Secretary of Agriculture or the Director of the Office of Defense Transportation (as may be required in the particular case), issues the Requisition. He also makes final administrative determination as to the amount of compensation to be paid for

property requisitioned by the War Department.

§ 814.1402 *Statutory authority to requisition property.* (a) The act of October 10, 1940, as amended, authorizes the taking of property by requisition when it is determined that:

(1) The property is military or naval equipment or munitions, or component parts thereof, or machinery, tools, or materials, or supplies necessary for the manufacture, servicing, or operation thereof;

(2) The property was ordered, manufactured, procured, or possessed for export purposes, and that the exportation thereof has been prohibited or curtailed in accordance with the provisions of section 6 of the act of July 2, 1940 (54 Stat. 714) as amended by the act of June 30, 1942 (56 Stat. 463, 50 U.S.C. App. 701), by the act of July 1, 1944 (Public Law 397-78th Congress), by the act of June 30, 1945 (Public Law 99-79th Congress) or by any other law; and

(3) It is necessary in the interest of national defense or prosecution of the war to requisition and take over the property for use or operation by the United States or in its interest.

(b) The act of October 16, 1941, as amended, authorizes the taking of property, other than firearms possessed by an individual for his personal protection or sport, possession of which is not prohibited by existing law, by requisition, if the taking will not impair or infringe in any manner the right of any individual to keep and bear arms, when it is determined that:

(1) The property is military or naval equipment, supplies, or munitions, or component parts thereof, or machinery, tools, or materials necessary for the manufacture, servicing, or operation of such equipment, supplies, or munitions;

(2) The use of the property is needed for the defense of the United States;

(3) Such need is immediate and impending and such as will not admit of delay or resort to any other source of supply; and

(4) All other means of obtaining the use of the property for the defense of the United States upon fair and reasonable terms have been exhausted.

§ 814.1403 *Statutory obligation to pay fair and just compensation.* The act of October 10, 1940, as amended, provides that fair and just compensation shall be paid to the owner of the property; and the act of October 16, 1941, as amended, provides that fair and just compensation determined in accordance with the provisions for just compensation of the fifth amendment of the Constitution of the United States, shall be paid to the person entitled to receive such compensation. If either such "owner" or such "person entitled to receive" compensation is unwilling to accept the amount so determined, the acts direct that he shall be paid 50% of such amount and shall be entitled to sue the United States for such additional sum as, when added to the sum so paid to him, he considers to be fair and just compensation for the property; the 1940 Act providing however that judicial recovery "shall be

confined to the fair market value" of the property "without any allowance for prospective profits, punitive or other damages."

§ 814.1404 *Return of requisitioned property to former owner under certain conditions.* The act of October 16, 1941, as amended, provides that whenever it is determined that property requisitioned under that act and retained is no longer needed for the defense of the United States it shall, if the original owner desires the property and pays the fair value thereof, be returned to such owner and that, in any event, property so acquired and retained shall, if such owner desires the property and pays the fair value thereof, be returned to him not later than December 31, 1946. Should a technical service determine that requisitioned property retained by it is no longer needed for the defense of the United States, it shall advise the Procurement Judge Advocate who will prescribe the procedure to be followed in effecting return of such property.

§ 814.1405 *Disposition of proceeds from property requisitioned and sold or disposed of under 1940 act.* The act of October 10, 1940, as amended, provides that any moneys received by the United States as the proceeds of any sale or other disposition of property requisitioned thereunder or any portion thereof shall be deposited to the credit of the appropriation out of which was paid the cost to the Government of the property thus sold or disposed of, and the same shall immediately become available for the purpose named in the original appropriation.

§ 814.1406 *Expiration date of Requisitioning Acts.* Authority under the act of October 10, 1940, as amended, remains in force until June 30, 1946, or until such earlier time as the Congress by concurrent resolution or the President by proclamation may designate. Authority under the act of October 16, 1941, as amended, remains in force during the national emergency declared by the President on May 27, 1941, but not later than June 30, 1946.

§ 814.1407 *Requests for exercise of requisitioning authority by the Under Secretary of War.* If the chief of any technical services believes that the requisitioning of property under the act of October 10, 1940, as amended, or the act of October 16, 1941, as amended, is desirable in any particular case, he shall forward his recommendations therefor to the Under Secretary of War through the Director, Procurement Division, Headquarters, Army Service Forces. Such recommendations shall be accompanied by a full statement of all pertinent information clearly showing the need in the particular case for the requested exercise of requisitioning authority. No requisitioning proceedings shall be initiated by a technical service, except with the prior approval or by the prior direction of the Under Secretary of War.

§ 814.1408 *Processing of requisitioning proceedings initiated prior to January 1, 1946.* Any requisitioning proceedings ini-

tiated prior to January 1, 1946 shall be processed and handled in accordance with the provisions of Procurement Regulations in existence on December 31, 1945.

§ 814.1409 *Scope of subpart.* This subpart relates only to requisitioning under the authorities referred to in § 814.1401 and does not apply to any other methods of requisitioning or commandeering which may be available to officers in theaters of operation.

SUBPART B—MANDATORY ORDERS

§ 814.1450 *Authority to place mandatory orders.*

§ 814.1450-1 *Basic statute.* (a) Section 9 of the Selective Training and Service Act of 1940 (54 Stat. 892; 50 U.S.C. 309) provides in pertinent part as follows:

The President is empowered, through the head of the War Department or the Navy Department of the Government, in addition to the present authorized methods of purchase or procurement, to place an order with any individual, firm, association, company, corporation, or organized manufacturing industry for such product or material as may be required, and which is of the nature and kind usually produced or capable of being produced by such individual, firm, company, association, corporation, or organized manufacturing industry.

Compliance with all such orders for products or material shall be obligatory on any individual, firm, association, company, corporation, or organized manufacturing industry or the responsible head or heads thereof and shall take precedence over all other orders and contracts theretofore placed with such individual, firm, company, association, corporation, or organized manufacturing industry or the responsible head or heads thereof owning or operating any plant equipped for the manufacture of arms or ammunition or parts of ammunition, or any necessary supplies or equipment for the Army or Navy, and any individual, firm, association, company, corporation, or organized manufacturing industry or the responsible head or heads thereof owning or operating any manufacturing plant, which, in the opinion of the Secretary of War or the Secretary of the Navy shall be capable of being readily transformed into a plant for the manufacture of arms or ammunition, or parts thereof, or other necessary supplies or equipment, who shall refuse to give to the United States such preference in the matter of the execution of orders, or who shall refuse to manufacture the kind, quantity, or quality of arms or ammunition, or the parts thereof, or any necessary supplies or equipment, as ordered by the Secretary of War or the Secretary of the Navy, or who shall refuse to furnish such arms, ammunition, or parts of ammunition, or other supplies or equipment at a reasonable price as determined by the Secretary of War or the Secretary of the Navy, as the case may be, then, and in either such case, the President, through the head of the War or Navy Departments of the Government, in addition to the present authorized methods of purchase or procurement, is hereby authorized to take immediate possession of any such plant or plants, and through the appropriate branch, bureau, or department of the Army or Navy to manufacture therein such product or material as may be required, and any individual, firm, company, association, or corporation, or organized manufacturing industry, or the responsible head or heads thereof, failing to comply with the provisions of this section shall be deemed

guilty of a felony, and upon conviction shall be punished by imprisonment for not more than three years and a fine not exceeding \$50,000.

The compensation to be paid to any individual, firm, company, association, corporation, or organized manufacturing industry for its products or material, or as rental for use of any manufacturing plant while used by the United States, shall be fair and just: *Provided*, That nothing herein shall be deemed to render inapplicable existing State or Federal laws concerning the health, safety, security, and employment standards of the employees in such plant.

(b) The authority to place mandatory orders under section 9 becomes inoperative on and after May 15, 1946, "or the date of the termination of hostilities in the present war, or on such earlier date as may be specified in a concurrent resolution of the two Houses of Congress for that purpose". The term "date of the termination of hostilities in the present war" means the date proclaimed by the President as the date of such termination or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier (Act of May 9, 1945, Public Law 54—79th Cong.).

§ 814.1450-2 *Delegation of statutory authority.* (a) By Executive Orders Nos. 8629 (6 F.R. 191), 9024 (7 F.R. 329), 9040 (7 F.R. 527), and 9125 (7 F.R. 2719) the Chairman of the War Production Board now the Civilian Production Administration was authorized to perform the functions and exercise the authority vested in the President by section 9. By Executive Orders Nos. 9280 (7 F.R. 10179), 9334 (8 F.R. 5423) and 9577 (10 F.R. 8087), the Secretary of Agriculture was authorized to perform such functions and to exercise such authority with respect to food for human and animal consumption.

(b) The Secretary of War has assigned his powers, functions and duties under section 9 to the Under Secretary of War.

(c) The Chairman of the War Production Board now the Civilian Production Administration has directed and empowered the Under Secretary of War to place orders pursuant to section 9 for such products or material, other than food intended for human or animal consumption, as the War Department may require; and the Secretary of Agriculture has directed and empowered the Under Secretary of War to place orders pursuant to section 9 for food subsistence items.

§ 814.1451 *Requests for placement of mandatory orders by the Under Secretary of War.* Former delegations by the Under Secretary of War of authority to place mandatory orders have been rescinded. If the chief of any technical service believes that the placement of an order pursuant to section 9 of the Selective Training and Service Act of 1940 is desirable in any particular case, he shall forward his recommendations therefor to the Under Secretary of War through the Director, Procurement Division, Headquarters, Army Service Forces. Such recommendations shall be accompanied by a full statement of all pertinent information clearly showing the need in the particular case for the requested placement of a mandatory order.

Subchapter B—Disposition of Property

[Procurement Reg. 7]

PART 821—GENERAL DISPOSITION OF PERSONAL PROPERTY

In § 821.102 the following definition is added in alphabetical order:

§ 821.102 Definitions. * * *

"Reconstruction Finance Corporation". The property disposal functions of the Reconstruction Finance Corporation have been transferred, effective January 15, 1946, to War Assets Corporation. Accordingly, when in this regulation reference is made to the Reconstruction Finance Corporation such reference shall be deemed to be a reference to War Assets Corporation.

PART 823—DISPOSITION OF PERSONAL PROPERTY FOR PURPOSES DIRECTLY RELATED TO THE PROSECUTION OF THE WAR

Sections 823.307-1, 823.307-2 and 823.308-1 are amended to read as follows:

§ 823.307-1 *Authority*. Any property not declared surplus may, upon requisition of another Federal agency, be transferred to such agency by direction of the chief of technical service having control thereof: *Provided*, That military property of Army Service Forces in normal state of supply (not excess or surplus) may be so transferred only with the approval of the Commanding General, Army Service Forces (Director of Supply).

§ 823.307-2 *Transfer without reimbursement under certain statutes*. (a) When transfers are made to the Navy Department (10 U.S.C. 1274), or to the Veterans Administration upon written request stating that the property is needed for authorized care for veterans (Title I, P.L. 346, 78th Cong.), or when transfers or loans are made to the Administrator of Civil Aeronautics upon his written request stating that the property will be used in carrying out the purposes of the Civilian Pilot Training Act of 1939 as amended (49 U.S.C. 756), or when aircraft is being acquired for replacement purposes by the Civil Aeronautics Administration (Title III, P.L. 61, 79th Cong.), or when property is transferred to the United States Soldiers' Home (Title I, P.L. 269, 79th Cong.) in accordance with paragraph (b) below, or when transfers are authorized under other statutes not requiring reimbursement, they will be effected without reimbursement of, or transfer or allotment of funds to, the transferor by the transferee for the cost of the property or of packaging, handling and shipment thereof, unless the property is procured by the transferee for the transferee.

(1) By assignment of sole purchase responsibility, or

(2) Under procurement pooling arrangements, or

(3) Under any arrangement for procurement by the transferor expressly upon the prior requisition of the transferee.

(b) Transfers without reimbursement to the United States Soldiers' Home may be made only of personal property which has been determined to be surplus. If property requested by the United States

Soldiers' Home has been declared surplus to a disposal agency, the request will be returned with appropriate information as to the disposal agency having jurisdiction over the property.

§ 803.308-1 *Authority*. Any property not declared surplus may be redistributed to any supply component for any authorized use by direction of the chief of technical service having control thereof; *Provided*, That military property of Army Service Forces in normal state of supply (not excess or surplus) may be so redistributed only with the approval of the Commanding General, Army Service Forces (Director of Supply).

PART 824—DISPOSITION OF NON-REPAIRABLE PERSONAL PROPERTY

In § 824.407 paragraphs (a) and (e) are amended to read as follows:

§ 824.407 *Donations to veterans' organizations, museums, and municipal corporations*. (a) The chiefs of the technical services are authorized to donate to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion and other recognized war veterans' associations, state museums, and incorporated museums operated and maintained for educational purposes only, whose charters deny them the right to operate for profit, municipal corporations, and posts of The Sons of Veterans Reserve, including those organizations or institutions which contributed material in the early scrap drives, condemned or obsolete ordnance, guns, projectiles, books, manuscripts, works of art, drawings, plans, models and other condemned or obsolete material which may not be needed in the service of the War Department. This authority includes items of surplus combat matériel, but items of captured enemy matériel will not be donated under this authority. Donations made pursuant to this authority will be with such demilitarization as is consistent with the use of the property.

(e) Donations of property under this Regulation shall be without expense to the Government for packing, handling, demilitarizing (where required by Circular No. 183, War Department, 1945 and ASF Manual M-419, or later amendments thereto, and demilitarization is performed to effectuate the particular donation) and transportation. Property shipped by carrier will be on commercial bill of lading with transportation charges collect.

PART 827—DISPOSITION OF SURPLUS PERSONAL PROPERTY

SUBPART B—DECLARATION TO DISPOSAL AGENCIES

1. In § 827.721-2 paragraph (b) is amended to read as follows:

§ 827.721-2 *Aircraft and related property*. * * *

(b) Surplus Aircraft Equipment, Components and Parts in Supply or in Government Furnished Equipment warehouses (as distinguished from items in-

cluded in termination inventories) included in the following classes listed in Army Air Forces T.O. No. 00-35A-1, and supplements thereto, will be declared to Reconstruction Finance Corporation, Surplus Property Division, Empire Building, Cleveland 1, Ohio.

01-B

01-C

01-D

01-E

01-F

01-G

01-H

01-I

01-J

01-K

01-L

01-M

01-N

01-P

01-Q

01-R

01-S

01-T

01-U

02-A

02-B

02-C

02-D

02-E

02-F

02-G

02-H

02-I

02-J

02-K

02-L

02-M

02-N

02-P

02-Q

03-A

03-B

03-C

03-D

03-E

03-F

except safety belts, cushions, fire extinguishers, carbon dioxide (CO₂) cylinders, valves and accessories, life raft accessories such as oars, inflation pump, bailing bucket, bullet hole plugs, etc., and parts.

03-G

03-H

03-I

03-J

except batteries.

03-K

03-L

04-A

05-A

Azimuth sextants and octants, aircraft type only.

05-B

Devices used for testing purposes for testing aircraft components after overhaul, such as carburetor test stands, hydraulic test stands, instrument test equipment and parts. (S.C.C. 42-96.)

05-C

05-D

05-E

10-A

only aerial cameras and their parts, including lenses.

10-D

Gun cameras, lenses and parts for aerial gun cameras only.

11-A

11-B

11-D

11-E

15

18

19-A

only aircraft towing gear (excluding tractors), special maintenance dollies, stands, slings, clamps, and supports, engine transportation cradles, chocks and wheel blocks. Hydraulic wing, nose, and axle and tail jacks. Special airplane ladders. Ground type aircraft engine heaters. Mooring kits. Only those items originally listed in classes set forth in this sub-paragraph.

26

- 28-A (Link trainers to be reported by Hq., AAF).
 28-B except windlasses, windlass installation parts and windlass motors.
 28-C
 30-A Only instructional aids for aircraft and aircraft equipment assigned to RFC.
 30-B
 30-C
 30-D
 30-E

2. Section 827.721-4a is added as follows:

§ 827.721-4a *Processed film.* Surplus processed film (motion pictures and film strips) will be declared to the Photographic and Optical Branch, Consumer Goods Division, War Assets Corporation, Railroad Retirement Building, Washington 25, D. C.

3. In the table in § 827.791 under Part 3 in the Maritime Commission column "No. 57-66" is amended, and in the R. F. C. (Consumer Goods) column "No. 57-66" is added as follows:

§ 827.791 *Assignment of property to disposal agencies.* * * *

PART 3—END PRODUCTS

R. F. C. (capital and pro- ducers' goods)	R. F. C. (consumer goods)	Maritime Commis- sion
.	.	.
.	57-66 Azimuths, sextants and oc- tants, aircraft type only.	57-66 Azimuths, sextants and oc- tants, shipboard type only.

[Procurement Reg. 7-A]

PART 830—GENERAL DISPOSITION OF INDUSTRIAL INSTALLATIONS

Section 830.102-11 is added, as follows:

§ 830.102-11 *Reconstruction Finance Corporation.* The property disposal functions of the Reconstruction Finance Corporation have been transferred, effective January 15, 1946, to War Assets Corporation. Accordingly, when in this regulation reference is made to the Reconstruction Finance Corporation such reference shall be deemed to be a reference to War Assets Corporation.

[SEAL] EDWARD F. WITSELL,
Major General,
Acting The Adjutant General.

[F. R. Doc. 46-2432; Filed, Feb. 12, 1946;
3:10 p. m.]

Subchapter C—Termination of Contracts [Joint Termination Regulation (PR 15)]

MISCELLANEOUS AMENDMENTS

The following amendments and additions to the regulations contained in Parts 841, 843, 844 and 848 are hereby prescribed. These regulations are also contained in Change 47, April 20, 1945 (10 F.R. 5171) as amended by Change 54, January 31, 1946.

AUTHORITY: Parts 841 to 849, issued under sec. 5a, National Defense Act, as amended, 41 Stat. 764, 54 Stat. 1225, 10 U.S.C. 1193-

¹ See also 10 F.R. 10449, 13174; 11 F.R. 5.

1195; the First War Powers Act, 1941, 55 Stat. 838; 50 U.S.C. Supp. 601-622; and the Contract Settlement Act of 1944, 58 Stat. 649.

NOTE: In order to conform the Joint Termination Regulation to the numbering system used in the Code of Federal Regulations, the following changes have been made: Sections in the original regulations have been treated as code parts, parts as code subparts, and paragraphs as code sections. Thus Section I becomes Part 841, Section II becomes Part 842, part 1 of any section becomes Subpart A, part 2 becomes Subpart B, etc. Paragraphs in the original regulations become sections, with the number to the right of the decimal point corresponding to the original paragraph number, except that where paragraph numbers also contain a decimal point the point is changed to a dash. The original paragraph numbers appear in brackets following text affected.

For an explanation of the numbering and arrangement of the original regulations see §§ 841.113 to 841.113-5.

PART 841—GENERAL PROVISIONS

SUBPART B—DEFINITIONS OF TERMS

1. Section 841.121-7 is amended as follows:

§ 841.121-7 *Industrial Readjustment Branch, OP&M.* The term "Industrial Readjustment Branch, OP&M" means the Office of the Assistant Secretary, the Navy, Material Division. [JTR 121.7]

2. Section 841.121-24 is added as follows:

§ 841.121-24 *Reconstruction Finance Corporation.* The property disposal functions of the Reconstruction Finance Corporation have been transferred, effective January 15, 1946, to War Assets Corporation. Accordingly, when in this regulation reference is made to the Reconstruction Finance Corporation such reference shall be deemed to be a reference to War Assets Corporation. [JTR 121.24]

PART 843—INTERIM FINANCING

SUBPART A—GENERAL POLICY AND ADMINISTRATION

1. Paragraphs (c) and (d) of § 843.312 are amended to read as follows:

§ 843.312 *Methods of interim financing.* * * *

(c) Advance payments authorized prior to termination or additional advances authorized thereafter (Subpart C of this part);

(d) Partial payments (Subpart D of this part).

2. In § 843.314-2 paragraph (c) (2) is amended and paragraphs (d) and (e) are added as follows:

§ 843.314-2 *Within the Navy Department.* * * *

(c) * * *
 (2) The inspector has cognizance of the applicant prime contractor, or of the prime contractor to whose contract the termination claim of the applicant subcontractor, of whatever tier, is allocable.

(d) The Navy material inspectors designated in paragraph (c) above may approve any partial payment upon proper application therefor filed by a subcontractor, *Provided, That:*

(1) The inspector finds that the amount of the partial payment requested, determined in accordance with paragraph (c) (1) above, does not exceed \$500,000.

(2) The inspector has cognizance of the prime contractor to whose contract the termination claim of the applicant subcontractor of whatever tier is allocable; and

(3) The prior approval of a settlement review board, established pursuant to paragraph 581, in the office of the Inspector, by the Chief of a Bureau, or by the Chief Inspection Administration Branch, Material Division, of the Office of the Assistant Secretary of the Navy, is obtained.

(e) The authority set forth in paragraphs (c) and (d) above does not include the authority:

(1) To approve applications for partial payments by war contractors whose termination claims are being settled under a company-wide settlement program;

(2) To approve an application for partial payment on account of a termination claim under any war contract with the Chief of any Bureau, by written notice to the Chief, Material Division, Office of the Assistant Secretary of the Navy, and to the inspector concerned, shall have specifically excepted from the provisions of paragraphs (c) and (d) above;

(3) To approve applications for partial payments into a fund for the benefit of subcontractors under § 843.364-2;

(4) To approve direct partial payments under § 843.366. [JTR 314.2]

PART 844—CONTRACTOR INVENTORY

SUBPART D—PRICE POLICIES AND CONDITIONS APPLICABLE TO SPECIFIC DISPOSITIONS

Sections 844.447-6 and 844.447-7 are added as follows:

§ 844.447-6 *Sales to Aluminum Company of America.* Order No. 4 issued under Surplus Property Administration Regulation No. 9 reads in part as follows:

In the disposal of aluminum metal in any form and in the disposal of any materials being acquired primarily for recovery of their aluminum content, no sale pursuant to §§ 8309.11, 8309.12, 8309.16, or 8309.17 shall be made to the Aluminum Company of America or to any of its subsidiaries without the prior written approval of the Surplus Property Administration.

The written approval of such sale will be obtained from the Surplus Property Administration through the Readjustment Division, ASF, in the case of the War Department, and in the case of the Navy Department, through the Industrial Readjustment Branch, OP&M. [JTR 447.6]

§ 844.447-7 *Sales of inventory containing radium.* The unrestricted disposal of surplus Government owned property or contractor inventory containing radium and radioactive salts may result in danger to public health and the possibility of contamination of other materials which will later be used in industry. Accordingly, contracting officers, in making or authorizing disposals as scrap or salvage of surplus Government owned property or contractor inventory con-

taining radium and radioactive salts will make every effort to channel such items into the hands of radium refining organizations, or, if this is not possible, to insure its complete elimination from civilian economy by destruction or otherwise. This is in accordance with Order No. 3, issued under Surplus Property Administration Regulation No. 9. [JTR 447.7]

PART 848—SPECIAL PROCEDURES AND REPORTS

SUBPART F—GOVERNMENT-OWNED PLANT EQUIPMENT UNDER WAR DEPARTMENT CONTRACTS

1. Section 848.860 is amended to read as follows:

§ 848.860 *Scope*. This subpart applies only to the War Department. It deals with the policies and procedures of the War Department with respect to the removal, storage, maintenance, sale or other disposition of Government-owned plant equipment covered by a War Department facilities contract. These policies and procedures are based in part upon the requirements of section 12 (g) of the act, section 14 (a) of the Surplus Property Act and Regulation No. 6 of the Surplus Property Administration, dated November 16, 1945 (32 CFR, Part 8306). [JTR 860]

2. In § 848.860-2 paragraphs (k) and (l) are added as follows:

§ 848.860-2 *Definitions*. * * *

(k) *Readily severable*. The term "readily severable" means capable of being removed and sold without substantial damage to either the property being removed or the premises.

(l) *Standard general purpose machinery*. The term "standard general purpose machinery" includes machine tools and machines as defined in Regulation 13 of the Surplus Property Administration (32 CFR, Part 8313).

3. In § 848.864-2 paragraph (a), (b) (2), and (c) are amended to read as follows:

§ 848.864-2 *Sales to war contractors in possession not pursuant to options*—

(a) *Sales authorized*. Subject to any contractual rights of intervening war contractors which have not been waived, any item of plant equipment may be sold by the chief of a service under authority of Surplus Property Administration Regulation No. 6 and this section to a war contractor in possession of such plant equipment for immediate or essential use in his civilian production and whether or not the plant equipment is idle at the time of sale, *Provided*, That:

(1) The following items of plant equipment may not be sold:

(i) Plant equipment which, to the knowledge of the contracting officer, is required by the Government for war production or in the interests of national defense, other than plant equipment required only for modernization of the permanent military establishment or for War Department industrial reserve;

(ii) Plant equipment in the possession of the Aluminum Company of America or any of its subsidiaries, unless written

approval of the sale has been obtained from the Surplus Property Administration through the Readjustment Division, ASF;

(2) Where the plant equipment is idle, the contracting officer has complied with the requirements of § 848.863-7;

(3) Care should be taken to avoid sales of individual items of plant equipment which are integral parts of a balanced production-line installation, when such sales would substantially lessen the utility or ultimate sales value of the installation.

(4) The price at which the plant equipment is to be sold has been established in accordance with the pricing policy set out in paragraph (b);

(5) The sale has been approved by a disposal board if required by paragraph (d);

(6) The contract of sale is not executed after (i) the plant equipment has been reported to a disposal agency as surplus in accordance with § 848.864-6 or (ii) the War Department has taken possession of the plant equipment (for example, by executing an agreement for its storage as contemplated in § 848.865-4, or by allowing the contractor to store it for the account and risk of the Government as contemplated in § 848.865-3 or by executing a receipt therefor as contemplated in § 848.865-8);

(7) In the following cases the contract of sale will not be executed until the contracting officer receives a favorable reply from the Attorney General to the report submitted under paragraph (c):

(i) Any proposed sale of plant equipment which cost the Government \$1,000,000 or more;

(ii) Any proposed sale to a war contractor of plant equipment which cost the Government \$100,000 or more and which is covered by one facilities contract, if the purchaser is engaged in a program of purchases from the Government of plant equipment which cost \$1,000,000 or more. In determining whether a purchaser is engaged in such a program, the contracting officer shall secure and may rely upon a written statement from such purchaser as to whether or not the proposed purchase is part of a general plan or a series of purchases which have been or will be made from the Government of plant equipment which cost \$1,000,000 or more. For purposes of such statement, the different divisions of a corporation will be considered to be a single purchaser.

(8) The contract of sale complies with paragraph (e); and

(9) The sale is in accordance with all applicable regulations of the War Production Board, the Civilian Production Administration and the Office of Price Administration.

(b) *Pricing policies*. * * *

(2) All sales of plant equipment for which prices are not established by applicable pricing regulations will be made at prices that are fair and reasonable. Plant equipment which is readily severable shall in no event be sold at prices which are less than the net proceeds that could reasonably be expected to be obtained by the Government if the property were offered for sale to the public generally. In order to prevent windfalls

to the war contractor or the owner of the plant in respect of plant equipment not readily severable, primary consideration shall be given to the value of the plant equipment to the war contractor or owner for the purpose for which it is to be used. In fixing prices consideration will be given to such factors as original cost and reproduction cost (new) of the equipment, less reasonable depreciation and obsolescence. Prior to each sale of plant equipment not readily severable, the contracting officer will make and preserve a written estimate of both the value of the plant equipment for use in place and its salvage value.

(c) *Submission of data to the Attorney General*. In any proposed sale of plant equipment which comes within the provisions of paragraph (a) (7) above, the contracting officer will immediately prepare and forward to the Director, Readjustment Division, ASF, a report of such proposal for transmission to the Attorney General as contemplated by section 20 of the Surplus Property Act of 1944. This report will contain the following information:

(1) Name of the contractor in possession.

(2) A copy of the facilities contract under which the plant equipment to be sold is held and all supplemental agreements thereto. (Schedules attached to the facilities contract may be omitted).

(3) General description of all plant equipment held by the purchaser under the particular facilities contract.

(4) Description of the plant equipment proposed to be sold and the cost thereof to the Government.

(5) Statement as to the location of each item of plant equipment to be sold and whether the land on which it is located is owned by the purchaser or is leased by the purchaser from a party other than the Government. If the land is leased to the purchaser, summarize briefly the provisions relating to duration and termination of the lease.

(6) Statement as to whether the plant equipment to be sold is idle and (i) if idle, whether it is currently being held in standby or (ii) if not idle, whether a notice of complete termination of war contracts being performed with the plant equipment has been served or whether complete cessation of work under such contracts is otherwise imminent.

(7) The amount of the offer or proposed sale price and all other terms and conditions of the proposed sale, to the extent available at the time of submission.

(8) A statement that the purchaser has represented that he plans to use the items purchased in his production.

(9) A brief statement by the purchaser as to what in general he intends to produce with the plant equipment proposed to be sold.

4. Section 848.864-6 is amended to read as follows:

§ 848.864-6 *Other sales and transfers*. (a) Where plant equipment not readily severable and located upon land the ownership of which is neither in the Government nor the war contractor is not

sold to the contractor in possession, such plant equipment may be sold to the land owner.

(b) In any case where the plant equipment not readily severable is not sold to the contractor in possession in accordance with § 848.864-2 or not sold to the owner of the land in accordance with paragraph (a) of this section, such plant equipment may be disposed of by:

(1) *Negotiated sale intact.* The pricing policies set forth in § 848.864-2 will be applicable to such sales. Before any sale is made under the provisions of this subparagraph the contracting officer will obtain from the contractor in possession a release to the Government from any obligation to dismantle or remove the plant equipment or to restore the premises affected by such removal.

(2) *Transfer intact to another service or bureau or to another Government agency.* Transfers of plant equipment may be made to another service or bureau or to another Government agency. Such transfers shall be made at the fair value as fixed by the chief of the service, unless transfer without reimbursement or transfer of funds is otherwise authorized by law. (See Part 823 of this chapter.) In this connection Surplus Property Board Special Order No. 12, June 16, 1945, authorizes owning agencies to transfer to Reconstruction Finance Corporation (as successor to Defense Plant Corporation) without reimbursement special attachments which are attached to machines or machine tools owned by it in any case when the contracting officer determines that such special attachments have no commercial value separate from the machines to which they are attached, or that the cost of the care and handling and disposition of such special attachments, separate from the machines to which they are attached, would exceed the estimated proceeds of disposition.

(3) A contract for demolition, the terms of which shall provide that title to the resulting material will vest in the demolition contractor. Such contract will be awarded only upon competitive bidding. Where the cost (estimated if necessary) of any plant equipment exceeds \$10,000, prior approval of the demolition by the Chief of Engineers will be required.

(4) *Demolition.* In such case the resulting material will be disposed of by competitive bidding to be conducted under the applicable provisions of § 844.445-4 (c) of this subchapter. Where the cost (estimated if necessary) of any plant equipment exceeds \$10,000, prior approval of the demolition by the Chief of Engineers will be required.

(5) Where the contracting officer is unable to dispose of plant equipment not readily severable to the owner in possession, and is unable to dispose of such plant equipment by any other methods set forth in this section at a fair and reasonable price he shall, upon a written finding that it is not in the best interest of the Government to dismantle or remove the plant equipment, declare such property as surplus in place. Such declaration of surplus to be made in accordance with Parts 830 to 839 of this chapter.

(6) No plant equipment the cost of which exceeds \$100,000 will be disposed of in accordance with this paragraph except with the prior approval of the Reconstruction Finance Corporation. At the request of the Reconstruction Finance Corporation any plant equipment not readily severable which is not disposed of to the contractor in possession in accordance with § 848.864-2 will be declared surplus in place to the Reconstruction Finance Corporation regardless of the cost of such plant equipment.

(c) Items of readily severable idle plant equipment which are not disposed of to the contractor in possession may be disposed of by:

(1) A sale may be made to any person if the chief of the service determines that such sale will facilitate the prosecution of the war or will be for the purpose of war production. The pricing policies set forth in § 848.864-2 will be applicable to such sales.

(2) *Transfer to another service or bureau or to another Government agency.* Such transfers shall be made at the fair value as fixed by the chief of the service, unless transfer without reimbursement or transfer of funds is otherwise authorized by law. (See Part 823 of this chapter.) In this connection Surplus Property Board Special Order No. 12, June 16, 1945, authorizes owning agencies to transfer to Reconstruction Finance Corporation (as successor to Defense Plant Corporation) without reimbursement special attachments which are attached to machines or machine tools owned by it in any case when the contracting officer determines that such special attachments have no commercial value separate from the machines to which they are attached, or that the cost of the care and handling and disposition of such special attachments, separate from the machines to which they are attached, would exceed the estimated proceeds of disposition.

(3) Items of idle plant equipment, which have not been disposed of under the preceding provisions of §§ 848.864 to 848.864-6, inclusive, or which are not to be disposed of under Subpart D of Part 844 of this subchapter as unserviceable or as small lots, shall be deemed to be surplus and shall be promptly reported to the appropriate disposal agency in accordance with Part 827 of this chapter. [JTR 864.6]

SUBPART H—REPORTS ON PROPERTY DISPOSITION

1. Section 848.882-1 (c) is amended to read as follows:

§ 848.882-1 *General description.* * * *

(c) *Part II; analysis of retentions.* This part of the report will analyze the information contained on Line 5, Columns (d) and (e) of Part I of the report form, and represents the several procedural or price policy categories set forth in SPA Regulation 9. Plant equipment reported on Form 5—Office of Contract Settlement—will not be included in this analysis.

2. Section 848.882-2 is amended to read as follows:

§ 848.882-2 *Form.* On or before the 12th day of each month, the chief of each

service will submit to the Readjustment Division, ASF, the original and one copy of a report for his service and one copy of a report for each procurement office and for each Company-Wide Settlement and Consolidated Termination Program Installation (included in the procurement office reports) under his jurisdiction. The reports will be submitted on WD AGO Forms 587-1, 587-2, and 587-3, which will be used by all echelons required to submit the report. Columns (B) through (O) of WD AGO Form 587-2 will not be required. An additional copy of Form 587-3 from each Consolidated Termination Program Installation is required to be submitted by § 848.898. Reports Control Symbol RCC-28 has been assigned to this report. [JTR 882.2]

3. In § 848.882-3 paragraph (e) is amended to read as follows:

§ 848.882-3 *Information required on report form.* * * *

(e) The following information will be entered in the various lines of Part II:

Line 1—*Retained for own use*—Enter in Columns (P) and (Q) the cost and proceeds from contractor inventory retained by the contractor in possession, in connection with which there was obtained a written representation that the property is not being retained for the purpose of reselling it at a profit. Also include small lots retained by contractor in possession without the use representation.

Line 2—*By prime contractor*, and Line 3—*By subcontractor*—The retention of contractor inventory for contractor's own use should be reported separately for retentions by prime contractors and retentions by subcontractors. The cost and proceeds entries on Lines 2 and 3 should total to Line 1.

Line 4—*Small lots sold and small inventories retained or sold by contractor*—Enter in Columns (P) and (Q) the cost and proceeds from small lots of contractor inventory sold by the contractor in possession and small inventories sold or retained by the contractor in possession. Since a representation for own use is not obtained for these retentions, the entries on this line may include retentions for own use and retentions for resale, as well as property sold by the contractor.

Line 5—*Unserviceable property sold*—Enter in Columns (P) and (Q) the cost and sales price of contractor inventory classified as unserviceable sold by contractor in possession, including retention for resale.

Line 6—*Competitive bidding*, and Line 7—*Negotiated sale*—The sale of unserviceable property by the contractor, including retentions for resale, should be summarized and reported separately for those sales by competitive bidding and sales by negotiated sales. The cost and sales price entries on Lines 6 and 7 should total to Line 5.

Line 8—*Serviceable property*—Enter in Columns (P) and (Q) the cost and sales price of serviceable property sold by contractors in possession, including retentions for resale.

Line 9—*To user buyers*, and Line 10—*to others*—The sale of serviceable property by the contractor, including retentions for resale, should be summarized and reported separately for those sales to user buyers and to others. The cost and sales price entries in Lines 9 and 10 should total to Line 8.

Line 11—*Destroyed or abandoned*—Enter in Column (P) the cost of property destroyed or abandoned.

Line 12—*Total*—Enter the total cost and sales price in Columns (P) and (Q). The total entered on this line should agree with Line 5, Columns (D) and (E) on Part I of the report form.

SUBPART I—MONTHLY REPORTS ON STATUS OF TERMINATIONS

Sections 848.895 through 848.895-3, inclusive, and §§ 848.898 through 848.898-3, inclusive, are revoked as follows:

§ 848.895 *Report on subcontract settlement delegations.* [Revoked]

§ 848.895-1 *General description.* [Revoked]

§ 848.895-2 *Form.* [Revoked]

§ 848.895-3 *Contents.* [Revoked]

§ 848.898 *Report on consolidated termination and company-wide settlement programs.* [Revoked]

§ 848.898-1 *General description.* [Revoked]

§ 848.898-2 *Form.* [Revoked]

§ 848.898-3 *Line entries.* [Revoked]

[SEAL] EDWARD F. WITSELL,
Major General,
Acting The Adjutant General,
War Department.

BEN MOREELL,
Vice Admiral,
Chief of Material Division,
Department of the Navy.

[F. R. Doc. 46-2433; Filed, Feb. 12, 1946;
3:10 p. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 182.3]

PART 98—EXAMINATIONS; REGULATIONS

ADOPTION OF PRIOR REGULATIONS; SPECIAL EXAMINATIONS FOR CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES

Regulations of the Board of Examiners approved June 5, 1945, with modifications subsequently approved.

The Board of Examiners for the Foreign Service, by virtue of the authority vested in it to prescribe rules and regulations for the giving of examinations for appointment to the position of Foreign Service officer, does hereby prescribe the following:

Sec.

98.31 Adoption of regulations of June 8, 1931, as regulations of Board of Examiners established by Executive Order 8396.

98.32 Special examinations for certain members and former members of the armed forces.

98.33 Relation between special examinations and examinations under §§ 98.1-98.14.

98.34 Requirements for special examinations.

AUTHORITY: §§ 98.31 to 98.34, inclusive, issued under E.O. 8396, Apr. 18, 1940, 3 CFR Cum. Supp., as amended by § 101.3 (b) (1) of this chapter, 10 F.R. 13260.

§ 98.31 *Adoption of regulations of June 8, 1931, as regulations of Board of Examiners established by Executive Order 8396.* The Board of Examiners, as established by Executive Order 8396 of April 18, 1940, as amended, and continued by § 101.3 (b) (1) of this chapter (Foreign Service Regulation S-4 of October 23, 1945, 10 F.R. 13259) does hereby ratify,

No. 34—6

approve and adopt as its own, the rules and regulations heretofore prescribed by the Board of Examiners constituted by section 3 of article 1 of Executive Order 5642 of June 8, 1931, as now set forth in 22 CFR 98.1-98.14. Such ratification and approval shall, inasmuch as §§ 98.1-98.14 have already been informally approved by the Board, be retroactive to April 18, 1940; the effective date of Executive Order 8396 establishing the present Board and all action heretofore taken pursuant to §§ 98.1-98.14 is hereby ratified and approved.

§ 98.32 *Special examinations for certain members and former members of the armed forces.* In addition to the examinations provided for in, and contemplated by §§ 98.1-98.14, there may be given during the present emergency and up to such time as in the judgment of the Board of Examiners will mark the restoration of normal conditions, special examinations open only to members of the armed forces in active service or to persons whose release from active duty or separation from the armed forces of the United States was under honorable conditions, for appointment to the grade of Foreign Service Officer, Unclassified. Each special examination shall consist of a written examination and an oral examination, and, in certain circumstances, a physical examination.

§ 98.33 *Relation between special examinations and examinations under §§ 98.1-98.14.* The special examinations referred to in § 98.32 shall in all respects have the same standing and weight as examinations given pursuant to §§ 98.1-98.14 and the successful completion of a special examination shall have the same effect as the successful completion of an examination given pursuant to §§ 98.1-98.14.

§ 98.34 *Requirements for special examinations.* The special examinations referred to in § 98.32 shall be given in accordance with the following provisions of this section:

(a) *Eligibility of candidate.* A candidate in order to be eligible for designation to take a special examination must:

(1) Be a member of the armed forces of the United States in active service, including a regularly enrolled member of the Naval Reserve Officers' Training Corps, or a person whose release from active duty or separation from the armed forces of the United States was under honorable conditions; *Provided, however,* That a member of the armed forces, in active service, to be eligible for designation for any examination given in 1945, must have been a member of the armed forces in active service for at least one year prior to January 1, 1945;

(2) Have been an American citizen for at least 15 years immediately prior to the filing of an application for designation to take the examinations;

(3) Be between the ages of 21 and 30, inclusive, on the first day of July in the year in which the written examination is to be held; *Provided, however,* That a candidate who was eligible for designation for the written examination given in 1945 but was prevented from taking

such examination by military necessity shall continue to be eligible notwithstanding the fact that he shall be over thirty years of age;

(4) Not be married to a person who is, at the time of filing of the application, an alien;

(5) Have received a bachelor's or other equivalent degree from a college or university accredited by a recognized national or regional accrediting agency; *Provided, however,* That the requirements of this paragraph shall be satisfied if the candidate shall have completed three quarters of the course required for bachelor's or other equivalent degree at the time of designation and been prevented from completing such course only by reason of the necessities of military service;

(6) Be able to read French, Spanish, or German with reasonable facility;

(b) *Time and place for written examinations.* The written examination, which shall be prepared under the direction of the Board of Examiners, shall be given at such times as shall be designated by the Board of Examiners and at such places as may be determined to be convenient.

(c) *By whom written examinations conducted—*(1) *For members of the armed forces in active service.* The written examinations for the members of the armed forces in active service may be supervised and conducted on behalf of the Board by the War and Navy Departments. In general, the War Department will conduct examinations for members of the Army and the Navy Department for members of the Navy, Marine Corps and Coast Guard in active service, but if convenient and desirable that Department which has the greatest facilities for the conduct of an examination in a particular area may, with the approval of the other Department, conduct examinations for all members of the armed forces in that area.

(2) *For persons whose release from active duty or separation from the armed forces of the United States was under honorable conditions.* The written examination for persons whose release from active duty or separation from the armed forces of the United States was under honorable conditions may be supervised and conducted on behalf of the Board by officers of the Civil Service Commission designated for that purpose by the Commission.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, the War and Navy Department may conduct examinations for persons referred to in subparagraph (2), and the Civil Service Commission for persons referred to in subparagraph (1) whenever a departure from the usual procedure shall be considered as expedient.

(d) *Scope of written examinations.* The written examination shall be such as to test the candidates:

(1) Ability to read with comprehension and reasonable speed;

(2) Ability to comprehend simple numerical relationships and to make simple mathematical deductions;

(3) Accuracy of factual information and vocabulary;

(4) Ability to express himself in written English;

(5) Ability to read with comprehension, French, German, or Spanish.

(e) *Eligibility for oral examination.* A candidate who attains an average grade of 70 or higher in the written examination shall be eligible for an oral examination.

(f) *Time and place for oral examination.* The oral examination shall be given at such times and places as shall be designated by the Board of Examiners.

(g) *By whom oral examination conducted.* The oral examination shall be conducted by examining panels whose members shall be appointed by the Board of Examiners.

(h) *Scope of oral examination.* The oral examination shall be such as to test the candidate's qualities with respect to appearance; manner; diction; readiness, clarity and precision in oral expression; forcefulness; earnestness; effectiveness of personality; initiative; imagination; resourcefulness; and general adaptability for the Foreign Service.

(i) *Grading of examinations.* Candidates whose final grade—that is, the average of the grades attained in the written examination and the oral examination—is 80 or higher, shall be certified by the Board of Examiners as eligible for appointment by the President as Foreign Service officers.

(j) *Physical examination.* Candidates shall not be recommended to the President for appointment unless they are physically fit for the performance of the duties of a Foreign Service officer. After the oral examination a successful candidate who is not a member of the armed forces in active service shall be given a physical examination. The successful candidate who is a member of the armed forces in active service shall be presumed to be physically fit, but the Board may require his physical examination whenever it deems such examination necessary. The final decision as to physical fitness will in each case rest with the Board.

(k) *Failure to report.* A candidate who fails to report for the written examination for which he has been duly designated may not be admitted to a subsequent examination unless specifically designated to take such subsequent examination.

(l) *Affiliations.* The political and religious affiliations of a candidate shall not be considered either in examinations or certifications.

DONALD RUSSELL,

Chairman of the Board of Examiners for the Foreign Service.

[F. R. Doc. 46-2538; Filed, Feb. 14, 1946; 2:53 p. m.]

[Foreign Service Reg. 8-15]

PART 101—FOREIGN SERVICE PERSONNEL
APPOINTMENTS OF OFFICERS AND EMPLOYEES

JANUARY 8, 1946.

Pursuant to the authority vested in me by R. S. 161 (5 U.S.C. 22); by Exec-

utive Order 9452 of June 26, 1944 (3 CFR, 1944 Supp., 66), as amended by Executive Order 9514 of January 18, 1945 (10 F.R. 771); and by Executive Order 9521 of February 13, 1945 (10 F.R. 1991), § 101.3 of the Foreign Service Regulations of the United States (10 F.R. 13259) is hereby amended to read as follows:

§ 101.3 *Appointments of officers and employees in the Foreign Service*—(a) *Ambassadors and ministers.* Ambassadors and ministers are appointed by the President, by and with the advice and consent of the Senate. (Const., art. II, sec. 2.)

(b) *Foreign Service officers.* Appointments to the position of Foreign Service officer are made by the President of the United States, by and with the advice and consent of the Senate, either after examination or after five years of continuous service in an executive or quasi-executive position in the Department of State, by transfer therefrom. No candidate shall be eligible for examination for Foreign Service officer who is not an American citizen and who shall not have been such at least 15 years. (22 U. S. C. 5.)

(1) *Examinations for the Foreign Service.* Examinations for the Foreign Service shall be given in accordance with rules and regulations prescribed by a Board of Examiners for the Foreign Service composed as follows: the Assistant Secretary of State in charge of administration who shall be chairman, the Director of the Office of the Foreign Service who shall act as chairman in the absence of the Assistant Secretary, the Chief of the Division of Foreign Service Personnel, the Executive Director of the Board of Examiners for the Foreign Service, an officer of the Department of Commerce designated by the Secretary of State, an officer of the Department of Agriculture designated by the Secretary of Agriculture and acceptable to the Secretary of State, and the Chief Examiner of the Civil Service Commission. Any member of the Board of Examiners for the Foreign Service may, when he deems it necessary, designate another officer of his department acceptable to the Secretary of State to serve for him on the Board.

(2) *Appointments after 5 years of service in the Department of State.* Appointments after 5 years of continuous service in the Department of State, as above stated, may be made to positions in any class in the Foreign Service on the basis of recommendations submitted by the Board of Foreign Service Personnel.

(c) *Vice consuls.* Vice consuls who are not Foreign Service officers shall be commissioned by the Secretary of State.

(d) *Consular agents.* Consular agents shall be commissioned by the Secretary of State upon the receipt of nominations from the officer in charge of the particular district.

(e) *Employees.* Clerks and other employees of the Foreign Service shall be appointed by the Secretary of State, or by subordinates of the Secretary of State authorized by him, under such regulations as he may prescribe, to make

such appointments. (E.O. 9537, Apr. 11, 1945.)

Section 101.3 of Foreign Service Regulation S-4 issued October 23, 1945, effective October 24, 1945 (10 F.R. 13259) is hereby revoked.

This regulation shall become effective immediately upon registration in the Division of the Federal Register.

For the Secretary of State.

[SEAL] DONALD RUSSELL,
Assistant Secretary.

[F. R. Doc. 46-2555; Filed, Feb. 15, 1946; 10:37 a. m.]

TITLE 24—HOUSING CREDIT

Chapter IV—Home Owners' Loan Corporation

[Bulletin 393]

PART 401—GENERAL

SALE OF PERSONAL PROPERTY

Amending Part 401, Chapter IV, Title 24 of the Code of Federal Regulations.

Section 401.12-7 (10 F.R. 8424) is amended to read as follows:

§ 401.12-7 *Sale of personal property.*

(a) Nonexpendable and expendable property which is available for sale may be sold by the Regional Manager to any other Government agency without prior approval from the General Manager: *Provided*, That such property shall be sold at prices established by the General Manager and in accordance with instructions issued by the General Manager. HOLC Form 229 shall be executed in connection with each such sale.

(b) Nonexpendable and expendable property available for sale may be offered by the Regional Manager for public sale on competitive bids on HOLC Form 629. As a general rule, it is the policy of the Corporation to make public sales on the basis of competitive bids. However, it is recognized that in the sale of certain articles having limited marketability or in damaged or unusable condition, it may not be practicable to obtain competitive bids, or the time element or other circumstances may be such that negotiation may best develop a satisfactory offer. In such instances, a proposal for a negotiated sale may be submitted on HOLC Form 629-A. Such proposals shall be accompanied by a statement by the Regional Manager relating the circumstances which in his judgment make it impracticable to solicit competitive bids. Ordinarily, competitive bids shall be obtained from three or more bidders. However, two bids may be submitted if that is all that readily can be obtained. Competitive bids should be opened in the presence of at least two employees of the Corporation, and the file shall include a statement of the date, time, and place the bids were opened and the name of the employees present.

(c) In soliciting bids for public sales, the Regional Manager may, if he considers it in the best interest of the

Corporation, require any bidder to accompany his bid with a certified check, payable to the Home Owners' Loan Corporation, for an amount not less than than twenty-five percent (25%) of the bid. Ordinarily, such good-faith deposits would be required only of bidders with whom the Corporation has had no previous dealings and whose credit rating is unknown to the Regional Manager.

(d) In public sales, no award shall be made by the Regional Manager until approval of a bid is obtained from the General Manager. After an award is made, the property shall not be delivered to the purchaser until payment in full is received by the Regional Manager. One copy of all bids received on HOLC Form 629 or Form 629-A shall be submitted to the General Manager, with two copies of HOLC Form 741, on which the Regional Manager shall indicate his recommendation as to the bid to be accepted and the reason therefor. The General Manager will indicate his approval of the bid on HOLC Form 741 and return one copy of said form to the Regional Manager, who shall thereupon execute Block III of the approved bid on HOLC Form 629 on Form 629-A and transmit one executed copy of the bid form to the successful bidder. When property sold on public sale is delivered to the successful bidder, receipt therefor shall be taken on HOLC Form 229-A.

(e) Regional Offices shall maintain a complete file of all nonexpendable and expendable property sales. Each sale, including both sales to other Government agencies and public sales, shall be given a sale number in consecutive order in one numerical series, prefixed by the Regional identification number. Each sale file in the Regional Office shall contain completed copies of Form 741, 629 (or 629-A), 229 (or 229-A), and any Purchase Orders, correspondence regarding the sale, or other pertinent papers.

(f) Regional Offices shall maintain also a columnar register of all personal property sale number in numerical order, and in the adjoining columns enter the name and address of the successful bidder, the date of delivery of the property purchased, or, if no award is made, a notation showing the disposition of the transaction.

Effective: February 12, 1946.

(Secs. 4 (a) and 4 (k), 48 Stat. 129, 132, 643, 647; 12 U.S.C. and Sup. 1463; E.O. 9070, 3 CFR Cum. Supp.)

[SEAL]

J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 46-2543; Filed, Feb. 14, 1946;
3:57 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter IV—Secret Service

PART 404—FILM RECORDATION OF GOVERNMENT SECURITIES, CHECKS, WARRANTS, AND PAPER MONEY BY BANKING INSTITUTIONS

FEBRUARY 11, 1946.

Section 404.2 of the Regulations of January 19, 1942, as amended,¹ is hereby amended to read as follows:

¹ 7 F.R. 430; 9 F.R. 7512, 12511.

§ 404.2 *Film recordation of Government securities, checks, warrants, and paper money.* (a) Authority is hereby given to all banks and banking institutions which in the ordinary course of business handle United States securities, checks, warrants, and paper money, to make film records thereof, and to project such film records on a screen: *Provided*, That the film records are maintained as confidential.

(b) No prints, enlargements, or other reproductions of such film records shall be made except with the permission of the Secretary of the Treasury, the Treasurer of the United States, the Commissioner of the Public Debt, or the Chief of the Secret Service Division, or such officers as may be designated by them.

H. D. WHITE,

Acting Secretary of the Treasury.

[F. R. Doc. 46-2540; Filed, Feb. 14, 1946;
3:27 p. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VIII—Office of International Trade, Department of Commerce

Subchapter B—Export Control

[Amtd. 141]

PART 801—GENERAL REGULATIONS

REFUNDS OF SUBSIDY PAYMENTS

Section 801.16 *Refunds of subsidy payments* is hereby amended in the following particulars:

1. Paragraphs (a) and (b) are hereby amended to read as follows:

(a) No person shall export any of the types or varieties of food commodities set forth in paragraph (c) of this section of a value in excess of that permitted under the provisions of general license "GLV" as set forth in § 802.10 of this subchapter, to any destination other than a territory or possession of the United States or to Canada; or any of the types or varieties of food commodities set forth in paragraph (d) of this section of a value of \$15.00 or more to any destination other than a territory or possession of the United States; or any of the types or varieties of food commodities set forth in paragraph (e) of this section of a value of \$10.00 or more to any destination other than a territory or possession of the United States, unless:

(1) Any subsidy payments made by the Department of Agriculture or other appropriate agency have been refunded in the amount, with respect to variety, grade and size, specified in paragraphs (c), (d) and (e) of this section, and

(2) There is presented to the Collector of Customs at the port of exit a Certificate of Subsidy Clearance issued by the Department of Agriculture or other appropriate agency which shall indicate the fact that the exporter has met the requirement specified in subdivision (1) of this paragraph (a) in regard to refunds of subsidy payments with respect to the commodities authorized for export, or that such refund is not required for the particular shipment.

(b) Application for a Certificate of Subsidy Clearance relating to the commodities set forth in paragraphs (c), (d) and (e) of this section shall be submitted to the Department of Agriculture or other appropriate agency on such form or forms and in such manner as may be prescribed by the Department of Agriculture.

2. There is hereby added thereto paragraph (e) as follows:

(e) Schedule of refunds to be made by exporters of soybean oil:

Commodity:	Refund per pound
Crude soybean oil.....	\$0.0375
Refined soybean oil.....	.04

This amendment shall become effective immediately except that the provisions thereof shall not be applicable to the exportation of crude or refined soybean oil under export licenses validated prior to the effective date hereof.

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 638, 77th Cong.; Pub. Law 397, 78th Cong.; Pub. Law 99, 79th Cong.; E.O. 8900, 6 F.R. 4795; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; E.O. 9630, 10 F.R. 12245; Order No. 390, 10 F.R. 13130)

Dated: February 11, 1946.

JOHN C. BORTON,
Director,

Requirements and Supply Branch.

[F. R. Doc. 46-2552; Filed, Feb. 15, 1946;
9:17 a. m.]

[Amtd. 142]

PART 802—GENERAL LICENSES

MISCELLANEOUS AMENDMENTS

1. Section 802.2 *General license numbers* is hereby amended to read as follows:

§ 802.2 *General provisions.* (a) No exportation may be made pursuant to any general license granted in this part unless prior to said exportation, whenever required by the Regulations for the Collection of Statistics of Foreign Commerce and Navigation of the United States, a Shipper's Export Declaration describing the commodity or commodities to be exported has been filed with the United States Collector of Customs at the port of exit or with the United States Postmaster at the place of mailing; or, unless, at the time of said exportation, whenever the filing of a shipper's Export Declaration is not required, an oral export declaration describing the commodity or commodities is made to a United States Collector of Customs at the port of exit.

(b) A person exporting any commodity pursuant to any general license granted in this part shall enter on the Shipper's Export Declaration the name of the person to whom such commodity is ultimately consigned and the designation or symbol of the general license authorizing the exportation. In the case of exportations by mail the designation or symbol of the general license authorizing the exportation shall be written in ink on the address side of the wrapper of the parcel.

2. Section 802.7 *Country group general license* is hereby amended to read as follows:

§ 802.7 Country group general license.

(a) A general license is hereby granted, subject to the other provisions of this section, authorizing the exportation of all commodities, except those commodities listed in § 801.2 (b) of this part, to destinations in country group K as designated in § 802.3 (a).

(b) The general license designation for this general license shall consist of the letter "G".

(c) If reference is made to a footnote in the list of commodities set forth in § 801.2 (b) of this part which modifies or alters the general license granted in this section the provisions specified in such footnote shall govern notwithstanding any other provision.

3. Section 802.12 *Photographic film, plates and paper* is hereby amended to read as follows:

§ 802.12 Photographic film, plates and paper "GPF". A general license designated "GPF" is hereby granted authorizing the exportation of developed photographic film, plates, and paper to all destinations in country groups K and E as set forth in § 802.3 (a) of this part; provided such film is submitted for examination to a United States Collector of Customs prior to exportation. This general license does not apply to unexposed or exposed but undeveloped film.

4. Section 802.18 *Publications not containing technical data "G-PUB"* is hereby amended to read as follows:

§ 802.18 Publications not containing technical data "G-PUB". (a) When used in this section, the term "publications" shall mean all those commodities classified under the following Department of Commerce Schedule B numbers which do not contain technical data as defined in § 806.1 of this subchapter.

Commodities	Dept. of Commerce Schedule B No.
Books, bound, other.....	9512.00
Books, text, bound educational.....	9510.00
Books, unbound in sheets.....	9514.00
Calendars, printed or unprinted.....	9560.00
Catalogs and pamphlets.....	9516.00
Currency, bank notes and uncanceled postage and revenue stamps.....	9569.98
Lithographically printed matter.....	9563.00
Maps and charts, geographic.....	9522.00
Music in books and sheets.....	9523.00
Newspapers, current (report over-issued and old newspapers in 4698-05 and 4698.09).....	9553.00
Periodicals.....	9555.00
Photographs and blueprints, n. e. s., except plans and specifications for the manufacture of aviation gasoline, aviation lubricating oil and tetraethyl lead.....	9550.98
Printed matter, n. e. s., except plans and specifications for the manufacture of aviation gasoline, aviation lubricating oil, and tetraethyl lead.....	9569.98

(b) A general license designated "G-PUB" is hereby granted authorizing the exportation of publications to all destinations in country groups K and E as set forth in § 802.3 (a) of this part.

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 638, 77th Cong.; Pub. Law 397, 78th Cong.; Pub. Law 99, 79th Cong.; E.O. 8900, 6 F.R. 4795; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; E.O. 9630, 10 F.R. 12245; Order No. 390, 10 F.R. 13130)

Dated: February 11, 1946.

JOHN C. BORTON,
Director,
Requirements and Supply Branch.

[F. R. Doc. 46-2551; Filed, Feb. 15, 1946; 9:17 a. m.]

[Amdt. 143]

PART 804—INDIVIDUAL LICENSES

PNEUMATIC TIRES

Part 804 *Individual licenses* is hereby amended by adding thereto § 804.17 as follows:

§ 804.17 Pneumatic tires. No motor vehicle or other piece of equipment propelled or drawn by mechanical power, except motorcycles and bicycles, when equipped with pneumatic tires, may be exported under the general license set forth in § 802.7 unless an individual export license has been granted permitting the exportation of any new tire or tires mounted or used thereon and unless a certificate in the following form is filed with a United States Collector of Customs at the port of exit relating to any used tire or tires mounted or used thereon:

I hereby certify that _____
(Number of units)
tire(s) used on this _____ to _____
(Type of vehicle)
be exported under general license has/have been in use for more than 1,000 miles.

(Signature of Exporter)

For the purposes of this section a new tire is defined as a tire which has been in use for less than one thousand miles.

This amendment shall become effective immediately.

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 638, 77th Cong.; Pub. Law 397, 78th Cong.; Pub. Law 99, 79th Cong.; E.O. 8900, 6 F.R. 4795; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; E.O. 9630, 10 F.R. 12245; Order No. 390, 10 F.R. 13130)

Dated: February 7, 1946.

JOHN C. BORTON,
Director,
Requirements and Supply Branch.

[F. R. Doc. 46-2550; Filed, Feb. 15, 1946; 9:17 a. m.]

Chapter IX—Civilian Production Administration

AUTHORITY: Regulations in this chapter unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236, 56 Stat. 177, 58 Stat. 827 and Pub. Law 270, 79th Cong.; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; E.O. 9599, 10

F.R. 10155; E.O. 9638, 10 F.R. 12591; CPA Reg. 1, Nov. 5, 1945, 10 F.R. 13714.

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 28, Direction 4, as Amended Feb. 15, 1946]

SPECIAL PROVISIONS FOR ASSIGNMENT OF CC RATINGS IN ORDER TO INCREASE PRODUCTION OF MALLEABLE IRON CASTINGS AND GREY IRON CASTINGS, INCLUDING CAST IRON SOIL PIPE, CAST IRON RADIATION AND RAILROAD CAR BRAKE SHOES

The following direction is issued pursuant to Priorities Regulation 28:

(a) The supply of malleable iron castings and grey iron castings, including cast iron soil pipe, cast iron radiation and railroad car brake shoes is substantially less than present and anticipated requirements; and this shortage is so serious as to threaten increased production of peacetime products. This shortage is therefore a serious threat to the economy of the country during the reconversion period. Consequently, CPA will assign CC ratings as provided in paragraph (d) (1) (iii) of Priorities Regulation 28 in accordance with the conditions of this direction where necessary to maintain or expand the production of malleable iron castings and grey iron castings, including cast iron soil pipe, cast iron radiation and railroad car brake shoes.

(b) *Producers of castings*—(1) *Capital equipment.* CC ratings may be assigned to producers of malleable iron castings and grey iron castings, including cast iron soil pipe, cast iron radiation and railroad car brake shoes for their purchase of capital equipment where the producer is unable to obtain delivery without a rating, and

(i) The equipment will result in a substantial increase in production, or

(ii) The equipment is needed to replace present operating equipment which is in danger of imminent breakdown.

(2) *Construction.* CC ratings may be assigned for materials which cannot be obtained without ratings, and where required for construction of new foundries or expansion or modernization of existing foundries where increased production will result. However, CC ratings will not be assigned for construction in areas where other foundries in the same area are curtailed due to lack of labor, unless the applicant can demonstrate that he will operate the new facility without increase in labor requirements. In other cases, CC ratings will be assigned for construction materials only under the conditions of Priorities Regulation 28.

(3) *Production materials and MRO.* CC ratings may be assigned for production materials and MRO needed by foundries where the foundry demonstrates that it is unable to obtain the item without priorities assistance and regardless of whether the item is needed to maintain minimum economic production in the foundry.

(d) *Denials of CC ratings.* The CC rating will be denied where it appears that the item for which a CC rating will be used is available, but under different terms of sale or from a supplier other than the applicant's customary supplier.

(e) *Definition.* The term "foundry" as used in this direction includes any producer of malleable iron castings or grey iron castings, including cast iron soil pipe, cast iron radiation and railroad car brake shoes.

(f) *PR 28 still applies.* In any case not covered by the above, CC ratings will be as-

signed only as provided in Priorities Regulation 28.

Issued this 15th day of February 1946.

CIVILIAN PRODUCTION
ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 46-2586; Filed, Feb. 15, 1946;
11:48 a. m.]

PART 1046—SUPPLIERS

[Limitation Order L-63, as Amended Feb.-15,
1946]

SUPPLIERS' INVENTORIES

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain supplies for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1046.1 *Suppliers' Inventory Limitation Order L-63—(a) Definitions.* (1) "Supplies" means all the supplies listed below:

- (i) Automotive supplies.
- (ii) Aviation supplies.
- (iii) Builders' supplies.
- (iv) Construction supplies.
- (v) Dairy supplies.
- (vi) Electrical supplies.
- (vii) Farm supplies.
- (viii) Foundry supplies.
- (ix) Grain elevator supplies.
- (x) Hardware supplies.
- (xi) Industrial supplies.
- (xii) Plumbing and heating supplies.
- (xiii) Refrigeration supplies.
- (xiv) Restaurant supplies.
- (xv) Textile mill supplies.
- (xvi) Transmission supplies.
- (xvii) Welding and cutting supplies.

even though such items or materials may be "consumers' goods" within the meaning of that term as used in Limitation Order L-219; but supplies shall not be deemed to include any of the items or materials set forth in List A.

(2) "Supplier" means any person (other than a producer) located in the 48 states or the District of Columbia, whose business consists, in whole or in part, of the sale from stock or inventory of supplies. "Supplier" includes wholesalers, distributors, jobbers, dealers, retailers, branch warehouses of producers and other persons performing a similar function.

(3) "Producer" means any person including any branch, division or section of any enterprise, which manufactures, processes, fabricates, assembles or otherwise physically changes any material.

(4) "Sales" means sales from stock, including consigned stocks and excluding direct shipments (i. e., excluding sales made by a supplier of supplies which such supplier has never received delivery of but has ordered from the producer thereof with instructions that they be shipped directly to the supplier's customer).

(5) "Seasonal lines" means any line of supplies in which a minimum of 40% of the supplier's total annual sales are made during a period of 90 days, or less.

(6) "Maximum permissible inventory" means:

(i) In the case of a supplier located in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas, an inventory (owned or consigned to him) of supplies of a total dollar value at cost (by physical or book inventory, at the option of the supplier) equal to the sales of such supplies at net sales figures, shipped from his inventory, during the four preceding calendar months.

(ii) In the case of a supplier located in the District of Columbia or any of the forty-eight states not enumerated in paragraph (a) (6) (i) above, an inventory (owned or consigned to him) of supplies of a total dollar value at cost (by physical or book inventory, at the option of the supplier) equal to sales of such supplies at net sales figures shipped from his inventory during the three preceding calendar months.

(b) *Limitation of supplier's inventories.* (1) Except as provided in paragraph (b) (3), (4), (5), and (6), no supplier shall accept any delivery of supplies from any person which will effect an increase in the inventories of the supplier above his maximum permissible inventory; and

(2) Except as provided in paragraphs (b) (3), (4), (5) and (6), no person shall make to any supplier any delivery of supplies which such person knows or has reason to believe will effect an increase in such supplier's inventory of supplies above the supplier's maximum permissible inventory.

(3) Any supplier, regardless of where located, shall be permitted to purchase and store an amount of seasonal lines equal to those which he purchased in the peak period of a comparable period of the previous year, but this peak period shall not exceed 120 days.

(4) A supplier may accept delivery of supplies which will increase his stock above the maximum permissible inventory, if such supplier's inventory of supplies is at the time of delivery less than his maximum permissible inventory and the delivery of the minimum quantity of such supplies that can be commercially procured.

(5) A supplier may accept delivery of specific items of supplies when his stock of all items in the aggregate exceeds, or will by virtue of such acceptance exceed, his maximum permissible inventory, but only to the extent necessary to bring such supplier's inventory of those specific items (owned or consigned to him) up to a total dollar value equal to the sales of such items shipped from such supplier's inventories during the preceding month.

(6) The Civilian Production Administration may, from time to time, exempt specified suppliers or classes of suppliers from the provisions of this order, subject to such restrictions as the Civilian Production Administration may impose. Application for exemption should be made by letter.

(7) The provisions of this order shall not apply to any supplier whose total

inventory at cost, including consigned stocks, of all supplies is less than \$35,000.

(8) Any person who wishes to establish an initial inventory of supplies with a value at cost of more than \$35,000, including consigned stocks, may apply for authorization to do so by filing a letter in triplicate stating the value of the inventory for which he requests authorization, the class of supplies he desires to purchase, the type of business he is entering and any other facts he considers pertinent to his case. All such applications will be processed on an equitable basis. Any amount authorized shall become his maximum permissible inventory for the next four complete calendar months in the case of a supplier located in the area covered by paragraph (a) (6) (i), above, or for the next three complete calendar months in the case of a supplier located in the area covered by paragraph (a) (6) (ii), above. After this period, his maximum permissible inventory is determined by the provisions of paragraph (a) (6) (i) or paragraph (a) (6) (ii), as the case may be.

(c) *Provisions of other orders.* (1) No provision of this order shall be construed to permit the accumulation of inventories of any item of material in contravention of the provisions of any other applicable order or regulation of the Civilian Production Administration. Specifically, a supplier may not accept delivery of any material if his inventory of that material is, or will be, more than a practicable minimum working inventory reasonably necessary to meet his own deliveries on the basis of his current or scheduled method and rate of operation.

(2) All restrictions of this order, including the above restriction to paragraph (c) (1), apply to materials listed in Table 3 of Priorities Regulation 32, as well as to all other items normally accepted into a supplier's inventory. Consequently, such materials are not exempt from any of the restrictions of this order.

(d) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(e) *Records and reports.* Each supplier (other than those who are exempt under paragraph (b) (6) or (b) (7)) must keep an up-to-date record of his total net monthly sales of supplies from stock, and his total inventory of supplies at the end of each month. He need not keep a separate record of his sales and inventory of each type of supplies. A record of his sales and inventory of all kinds of supplies in the aggregate will be satisfactory. In preparing his sales record he should use net selling prices, including sales from consigned stock and excluding direct shipments. His inventory record may be based either on book inventory or physical count. Inventory valuations must be at cost and must include consigned stock. The sales and inventory data required by this paragraph must be preserved for a period of at least two years, available for inspection by authorized representatives

of the Civilian Production Administration. This record keeping plan has the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942. Subject to the approval of the Bureau of the Budget, the Civilian Production Administration may at any time ask for the submission of this data.

(f) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the Civilian Production Administration, as amended from time to time.

(g) *Communications.* All communications concerning this order shall be addressed to Civilian Production Administration, Wholesale and Retail Branch, Washington 25, D. C., Ref.: L-63.

(h) [Deleted Feb. 15, 1946.]

Issued this 15th day of February 1946.

CIVILIAN PRODUCTION
ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

LIST A

The types of material set forth below are not deemed to be supplies within the meaning of paragraph (a) (1). Accordingly, these materials may be excluded from the monthly report required by paragraph (e), and are not subject to the inventory restrictions required by paragraph (b), provided that sales of such materials are not included in computing maximum permissible inventory as defined in paragraph (a) (6).

(1) The following general products and merchant trade products:

GENERAL STEEL PRODUCTS

	Types of steel included		
	Carbon	Stainless	Other alloy
Ingot, blooms, billets, slabs, tube rounds, die blocks, sheet and tin bars	X	X	X
Structural shapes and piling	X		X
Plates (universal and sheared including skelp)	X	X	X
Rails and track accessories	X		X
Hot rolled bars—except concrete reinforcing bars but including forged, galvanized, and wrought iron bars	X	X	X
Cold finished bars	X	X	X
Tool steel, including drill rod	X	X	X
Mechanical tubing	X	X	X
Pressure tubing	X	X	X
Wire rods (for wire drawing only)	X	X	X
Sheet and strip, hot rolled	X	X	X
Sheets and strip, cold reduced	X	X	X
Tin mill black plate	X		
Sheets and strip, all other (except tin plate, short ternes, and galvanized)	X		
Wheels and axles (including steel tires and rims)	X		X
Castings (rough castings only)	X	X	X
Concrete reinforcing bars (unfabricated)	X		

MERCHANT TRADE PRODUCTS

Standard and line pipe, water well tubular products, and couplings (includes steel and wrought iron pipe).
Oil country casing, tubing, and drill pipe, and couplings.
Tin plate and terne plate (short ternes).
Galvanized, lead coated, or painted sheets and strip (including galvanized flat sheets purchased for the manufacture of roofing and siding), formed roofing and siding (painted, black, galvanized, or lead coated), valley, ridge roll, and flashing.
Wire rope and strand.
Nails (cut and wire), fence and netting staples.
Wire, drawn.
Wire bale ties.
Wire (barbed and twisted), and wire fence (woven or welded).
Wire netting.
Fence posts.
Welded wire concrete reinforcing fabric.

- (2) [Deleted Jan. 29, 1946.]
(3) [Deleted Jan. 29, 1946.]
(4) Replacement parts specially designed to fit only one model and brand of machinery or equipment, and adaptable to no other use: *Provided*, That in no event shall the supplier accept delivery of any such parts where his inventory thereof is, or will by virtue of such delivery become in excess of six times his sales of such parts during the second preceding calendar month;
(5) [Deleted Jan. 29, 1946.]
(6) Any material which is subject to rationing by the Office of Price Administration;
(7) [Deleted Jan. 29, 1946.]
(8) [Deleted Jan. 29, 1946.]
(9) [Deleted Jan. 29, 1946.]
(10) Industrial materials and finished products sold to the supplier by a special sale under Priorities Regulation No. 13.
(11) Repair and replacement parts for commercial and industrial refrigeration equipment.
(12) Electric mangles
Electric water heaters
Mechanical refrigerators
Musical instruments (including pianos and organs)
Radio receiving sets
Phonographs
Radio and phonograph combinations
Ranges—gas and electric
Sewing machines
Vacuum cleaners
Washing machines

INTERPRETATION 1

"Supplies", as listed in paragraph (a) (1) of Limitation Order L-63 do not include seeds, plants, livestock, fertilizer, clocks, watches, sporting goods, furniture, pottery, china, or glassware. (Issued May 15, 1942.)

[F. R. Doc. 46-2585; Filed, Feb. 15, 1946; 11:48 a. m.]

PART 3290—TEXTILE, CLOTHING AND LEATHER

[Conservation Order M-310, as Amended Feb. 14, 1946]

HIDES, SKINS AND LEATHER

The fulfillment of requirements for the defense of the United States has created shortages in hides, skins and leather for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

- (a) General definitions.
(b) Provisions applying to all hides, skins and leather.
(c) Untanned cattlehides, calfskins and kips.
(d) Effect on prior orders.
(e) Reports.
(f) Appeals.
(g) Communications to the Civilian Production Administration.
(h) Violations.

§ 3290.196 *Conservation Order M-310—(a) General definitions.* (1) "Tanner" means a person in the business of tanning, dressing, or similarly processing hides or skins, who in any calendar month after April 1, 1940, processed or processes more than 500 hides or skins.

(2) "Contractor" or "converter" means a person in the business of causing hides or skins to be tanned or dressed for his account in any tannery not owned or controlled by him.

(3) "Collector" means a person, including a dealer or importer, engaged in

the business of acquiring from others untanned hides or skins for resale, or removing hides or skins from animals not slaughtered by him.

(4) "Producer" means a person in the business of slaughtering animals.

(5) "Military order" means an order for hides, skins or leather for delivery against a specific contract placed by any of the following, or for incorporation in any product to be delivered against such a contract:

The Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration.

(6) "Military specifications" or "military quality" means, except as herein otherwise specifically provided, the specifications applicable to military orders or the quality of material meeting such specifications.

(7) "Sole leather" means vegetable tanned sole leather unless otherwise specified.

(8) "Whole stock" means sides, crops, backs, bends, shoulders with heads on, shoulders with heads off, bellies and belly centers.

(b) *Provisions applying to all hides, skins and leather.* (1) No person shall process any hides, skins or leather contrary to any specific direction issued from time to time by the Civilian Production Administration relating to the processing or production of specific types of leather to meet military or designated civilian requirements.

(2) No producer, collector, tanner, contractor, converter or cutter shall sell, deliver, accept delivery of, cut, use or incorporate in any product any hides skins or leather contrary to any specific direction issued from time to time by the Civilian Production Administration deemed necessary in order to fill military or designated civilian requirements.

(3) Notwithstanding the provisions of any regulation or order of the Civilian Production Administration, no preference rating shall be applied or extended for the delivery of hides, skins or leather, except:

(i) Leather for military orders (excluding sole leather whole stock and cattlehide splits in the blue, pickled, or lime state); or

(ii) When specifically authorized in writing by the Civilian Production Administration pursuant to this paragraph (b) (3) (ii).

(4) No tanner, contractor, converter, finisher, jobber or cutter shall deliver any leather (except shearlings) for footwear purposes, unless he has received the footwear manufacturers' quota number of the purchaser. This paragraph shall not prevent deliveries to persons regularly in business as leather contractors, leather converters, leather finishers, leather jobbers, leather cutters, finders or shoe repairers or to persons outside the continental United States.

(c) *Untanned cattlehides, calfskins and kips—(1) Definition.* "Cattlehide", "calfskin" and "kip" mean the hide or skin of a bull, steer, cow or buffalo, foreign or domestic (excluding slunks).

(2) No producer or collector shall put into process or cause to be put into process any untanned cattlehide, calfskin or kip, or portion thereof, other than splits

and gluestock, except to the extent specifically authorized in writing by the Civilian Production Administration. Applications for such authorization may be made by letter setting forth the quantity of each kind of cattlehide, calfskin or kip, or portion thereof, which the applicant desires to put into process or cause to be put into process.

(3) No person shall sell, deliver, purchase or accept delivery of any untanned cattlehide, calfskin or kip, or portion thereof, other than splits and glue stock, except to the extent that the purchaser is specifically authorized by the Civilian Production Administration on Form WPB or CPA-1323 or Form WPB or CPA-3507. Applications may be made on Form WPB or CPA-1325 for the purchase of domestic cattlehides, and on Form WPB or CPA-1322 for the purchase of domestic calfskins and kips: *Provided*, That the following may be made without such authorization:

(i) Transactions between collectors and between producers and collectors for purposes of resale or delivery within the continental United States.

(ii) The sale and delivery to and the purchase and acceptance of delivery by any person other than a tanner of less than 500 hides or skins in any calendar month.

(4) In acting under paragraph (c) (3), it will be the policy of the Civilian Production Administration, so far as is practicable, to grant authorizations so that contractors or tanners will obtain cattlehides, calfskins or kips in the proportions that their respective wettings of such skins computed separately during the calendar year 1942, bore to all wettings thereof during that year by all contractors and tanners producing the same type of leather, except that authorizations to tanners or contractors having more than a practicable minimum working inventory may be reduced or omitted.

(d) *Pickled sheepskins and slats*—(1) *Definitions.* (i) "Pickled sheepskin" means a de-wooled, untanned, unsplit skin which has been removed from a sheep or lamb, except a skin from a hair sheep or a South African coarsewool sheep. The term includes any slat which has been pickled or immersed in a chemical solution to condition it for tanning, but does not include any slat as defined in the next paragraph.

(ii) "Slat" means a dried, untanned sheepskin which has no wool or has wool less than $\frac{1}{4}$ inch in length of no commercial value, and which has not been pickled or immersed in a chemical solution to condition it for tanning.

(2) *Restrictions on withdrawal from Customs.* On and after February 16, 1946, no person shall withdraw any pickled sheepskins or slats from United States Customs within the continental United States except as specifically authorized in writing by the Civilian Production Administration under this para-

graph. Before arrival of the sheepskins or slats in the United States the importer shall notify the Civilian Production Administration, Hide & Leather Branch, Washington 25, D. C., Ref.: M-310, by letter specifying the quantity, type, country of origin, probable date of arrival, and, if available, name of ship. This provision does not relieve the importer from complying with applicable provisions of General Imports Order M-63.

(3) *Restrictions on purchase and acceptance of delivery by a tanner or converter.* (i) On and after February 16, 1946, no tanner or converter shall purchase or accept delivery of pickled sheepskins or slats for any purpose, or have them purchased or accepted for his account for any purpose, except in quantities specifically authorized in writing by the Civilian Production Administration (upon application on Form CPA-4404), and no person shall make any sale or delivery which he knows or has reason to believe would be accepted in violation of this paragraph. In the case of a tanner or converter who performs the de-wooling operation or has it done for his account, the movement of the pickled sheepskins or slats after de-wooling to be tanned by him or for his account shall constitute an acceptance of delivery by him subject to this paragraph.

(ii) However, this paragraph (d) (3) does not apply to any pickled sheepskins or slats before they are imported into the continental United States. Also, a tanner or converter who has been designated in an authorization under paragraph (d) (2) to receive imported pickled sheepskins or slats, may receive them without restriction under this paragraph (d) (3) and without counting them against the total quantities specifically authorized under this paragraph (d) (3).

(iii) Moreover, this paragraph (d) (3) does not apply to the acceptance by any tanner or converter of pickled sheepskins or slats which were consigned to him and were in transit within the Continental United States on February 16, 1946.

(4) *Policy.* In acting under paragraphs (d) (2) and (3), it will be the policy of the Civilian Production Administration, so far as is practicable, to grant authorizations so that:

(i) Each tanner and converter will obtain pickled sheepskins in the proportion that wettings for his own account of such skins during any calendar year 1941 to 1945, inclusive, bears to the total computed by adding together the wettings of such skins for his own account by each tanner and converter during

the calendar year from 1941 to 1945 which he selects.

(ii) Each tanner and converter will obtain heavy foreign pickled sheepskins (averaging 45 pounds per dozen or heavier) in the proportion that his wettings of such skins during calendar year 1941 bore to the total thereof by all tanners and converters during the same period.

Authorizations to tanners or converters having more than a practicable minimum working inventory may be withheld or may be granted in reduced quantities.

(5) *Base period report.* Each tanner or converter seeking to qualify under paragraph (d) (4) for authorizations under paragraphs (d) (2) or (3) shall file as soon as possible a one-time base period report on Form CPA-4405.

(e) *Regular reports.* Every person described below shall, on or before the 10th day of each month execute and file reports with the Civilian Production Administration, as directed on the respective forms mentioned below:

Tanners and converters of cattlehides.....	WPB or CPA-1325
Tanners and converters of calfskins and kips.....	WPB or CPA-1322
Tanners and converters of pickled sheepskins and slats.....	CPA-4404

Failure to file any of the reports mentioned above or any other reports requested pursuant to approval by the Bureau of the Budget shall constitute a violation of this order.

(f) *Plants without quotas.* Any person who owns a plant equipped to process hides or skins but whose past operations do not qualify him under paragraphs (c) (4) or (d) (4), may apply for authorization under paragraphs (c) or (d) by letter. The letter should be addressed to the Civilian Production Administration, Hide and Leather Branch, Washington 25, D. C., and should indicate the name and address of the plant, type and quantity of leather raw material which the applicant wishes to process per month, and the quantity of each type which he has processed during the preceding four calendar months. Authorizations may be granted on an equitable basis to applicants who did not process a monthly average of more than 500 hides and skins of all kinds during the preceding four calendar months.

NOTE: Paragraphs (g), (h), and (i), formerly (f), (g), and (h), redesignated Feb. 14, 1946.

(g) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate referring to the particular provision appealed from and stating fully the grounds of the appeal.

(h) *Communications to the Civilian Production Administration.* All reports,

applications, forms, or communications required under or referred to in this order, and all communications concerning this order, shall, unless otherwise directed, be addressed to the Civilian Production Administration, Textile Division, Washington 25, D. C., Ref: M-310.

(i) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or who furnishes false information to any department or agency of the United States is guilty of a crime, and, upon conviction, may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

NOTE: The reporting requirements of this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

Issued this 14th day of February 1946.

CIVILIAN PRODUCTION
ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 1: Revoked Aug. 27, 1945.

INTERPRETATION 2: Revoked Jan. 17, 1946.

[F. R. Doc. 46-2548; Filed, Feb. 14, 1946;
5:02 p. m.]

PART 3290—TEXTILE, CLOTHING AND LEATHER

[Conservation Order M-328B, Schedule K,
as Amended Feb. 14, 1946]

SPECIAL PROGRAM FOR WOOL CIVILIAN ITEMS

§ 3290.120k *Schedule K to Order M-328B—(a) Explanation.* This schedule states the special rules in addition to those set forth in M-328B for manufacturers of civilian items manufactured from wool fabric to get preference ratings for wool fabric for delivery beginning in the fourth quarter of 1945 to make the items listed in this schedule. It also establishes set-asides for certain wool fabrics for these items.

(b) *Definitions.* For the purpose of this schedule:

(1) "Fabric" unless otherwise designated, means a woven or knitted fabric 12 inches or more in width.

(2) "Wool fabric" means any fabric incorporating 25% or more by weight of new, re-processed or re-used wool fiber except upholstery pile fabrics and floor coverings and blankets and felt. The term includes woolen and worsted fabrics.

(3) "Wool item" means an item of which 50% or more of the fabric yardage incorporated in it, exclusive of linings, bindings and trimmings, is made of woolen or worsted fabrics.

(4) "Tailor-to-the-trade" means a manufacturer who makes items to the individual measurements of the ultimate consumer, and who sells them to a distributor at a wholesale price.

(c) [Deleted Jan. 3, 1946.]

(d) *General provisions.* (1) Preference ratings assigned under this schedule may be used only to get wool fabrics listed on the Fabric Set-Aside Table

to make the wool items specified in the preference rating schedule.

(2) The fabrics must be incorporated into an item produced for sale by the manufacturer at or below the lower of the following two prices:

(i) The price at which the manufacturer is permitted to sell the item under regulations of the Office of Price Administration.

(ii) The price specified in the maximum price column.

(3) A manufacturer who is not a base period manufacturer must comply with the provisions of paragraph (c) (6) of Order M-328B.

(4) A manufacturer who did not manufacture an item on the base period must state his proposed production by size assortment per dozen in the "Remarks" section of Form CPA-3732. If his application is granted, he must comply with these size assortments.

(5) Priorities assistance will be given for the procurement of rayon and cotton broad woven fabrics for linings, facings, bindings, stays, pockets and other components made of broad woven fabric for incorporation into the number of units for which priorities assistance is granted. Requests for this assistance shall be made on Form CPA-3732 in accordance with the instructions applicable to filling out that form. Manufacturers who are authorized to apply a CC rating to get wool fabrics for items under this schedule may immediately apply a CC rating to get the above components for those items. This rating may only be used to get component fabrics applied for on Form CPA-3732 and only for the yardage required to produce the number of units of the item for which deliveries of body fabric have been received since January 1, 1946, or are actually scheduled, on CC ratings assigned under M-328B. Component fabrics purchased under this advance authorization, or on CC ratings assigned under Priorities Regulation 28 for components for items to be made from wool fabric delivered after January 1, 1946, shall be deducted by the manufacturer from the total quantity for which priorities assistance for component fabrics is granted on Form CPA-3732. If the applicant does not receive a grant for the entire quantity thus rated he shall upon notification of his grant by the Civilian Production Administration immediately unrate or cancel orders for any undelivered quantities which are in excess of his grant.

(6) Producers of wool woven fabric need not file Form CPA-1420 under paragraph (h) (3) of Order M-328B until January 20, 1946. Producers of wool knitted fabrics need not file Form CPA-1420 but must report to the Textile Division, Civilian Production Administration, Washington 25, D. C., by letter on or before February 9, 1946. This letter must state the yardage of each fabric listed on the Fabric Set-Aside Table required to be set aside to fill rated or certified orders under the provisions of paragraph (e) (1) below.

(7) A manufacturer of men's suits (item 14 in Preference Rating Schedule 1 and item 1 in Preference Rating Schedule 2) may use any fabric he obtains after January 1, 1946 with a CC rating assigned under this schedule to produce men's

suits for sale at or below \$22.50 or his OPA ceiling price, whichever is lower.

(e) *Set-asides of wool fabrics to fill rated or certified orders.* (1) Every producer of wool fabric listed in the Fabric Set-Aside Table, whether he sells it or uses it to manufacture civilian items, shall set aside during the first quarter of 1946 for ultimate delivery on M-328B CC rated orders, a yardage of that fabric equal to at least the percentage shown in Column IV of the yardage he produced during the 4th quarter of 1945, or of his estimated production in the first quarter of 1946, whichever is greater. No fabrics sold at more than the price specified in Column III may be charged to this set-aside.

(2) Only orders accompanied by Forms CPA-4381 or CPA-4382 may be charged to the set-aside in Column IV. No producer need deliver or use in the first quarter of 1946 to fill these orders (i) any wool fabric not listed on the Fabric Set-Aside Table; (ii) more of any fabric listed on the Fabric Set-Aside Table than his set-aside for that fabric.

(3) When a producer has accepted orders accompanied by Form CPA-4381 or CPA-4382 to the extent of a set-aside for any fabric he may not require any customer to furnish any of these forms as a condition of filling additional orders for that fabric.

(4) Any person giving a certificate under this schedule, including the certificates on Form CPA-4381 and CPA-4382, must use or dispose of fabric he gets with that certificate in accordance with its terms.

(f) *Deliveries by wool jobbers to fill rated orders.* (1) Every wool jobber making the certification on Form CPA-4381 must deliver during the first quarter of 1946 wool fabric of the type covered by his order in a yardage at least equal to the yardage which he orders for delivery in that quarter on orders bearing that certificate.

(2) No wool jobber is required to accept or fill M-328B CC rated orders for a greater yardage of any type of wool fabric listed on the Fabric Set-aside Table for delivery in the first quarter of 1946 than a yardage equal to all wool fabric of that type which he orders for delivery during that period on orders bearing the certificate on Form CPA-4381.

(3) Any wool jobber who does not use the certification in Form CPA-4381 for a fabric must accept M-328B CC rated orders for that fabric in accordance with the provisions of Priorities Regulation No. 1. After a wool jobber uses Form CPA 4381 on any of his purchase orders for a fabric he must not extend to any supplier on orders for that fabric any CC ratings which he knows or has reason to believe were assigned under Order M-328B.

(4) A wool jobber may not use the certification on Form CPA-4381 to order for delivery in the first quarter of 1946 a yardage of wool fabric of any type listed on the Fabric Set-aside Table greater than 85% of the yardage of that type of fabric delivered to him in the fourth quarter of 1945.

(g) *Fourth quarter 1945 CC ratings for women's wool civilian items.* Not-

withstanding the provisions of paragraph (f) (2) of M-328B, any undelivered CC rated orders for items numbered 1 through 13 inclusive, on Preference Rating Schedule No. 1 shall become unrated on January 4, 1946.

(h) *Acceptance of rated orders*—(1) If a supplier of wool fabric received orders bearing CC ratings (assigned under this schedule) calling for delivery during the months of January and February 1946, he may hold them until January 20, 1946 before determining whether he is required to accept them. However, he must not actually reject any such CC rated orders for any fabric until such time as he has accepted CC rated orders for two-thirds of the yardage of that fabric he is required to set-aside.

(2) If a supplier of wool fabric receives orders bearing CC ratings (assigned under this schedule) calling for delivery during the month of March, 1946, he may hold them until February 18, 1946 before determining whether he is required to accept them. However, he must not actually reject any such CC rated orders for any fabric until such time as he has accepted CC rated orders for the full yardage of that fabric he is required to set-aside.

(i) *Special provisions for tailors-to-the-trade*. The Civilian Production Administration will grant priorities assistance to manufacturers who are tailors-to-the-trade to get wool fabrics listed under Reference Nos. 2 and 2a on the Fabric Set-Aside Table to make Item No. 1a on Preference Rating Schedule No. 2 under the following rules:

(1) Applications for the first quarter of 1946 must be filled out and filed on Form CPA-3732, and should be postmarked not later than February 9, 1946.

(2) No tailor-to-the-trade may apply a rating to get wool fabric to make Item No. 1a on Preference Rating Schedule No. 2 before the Civilian Production Administration has specifically assigned him a CC rating on Form CPA-3732, except to the extent permitted in paragraph (c) (3) of Order M-328B.

Issued this 14th day of February 1946.

CIVILIAN PRODUCTION
ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

FABRIC SET-ASIDE TABLE
FIRST QUARTER OF 1946

NOTE: Table amended Feb. 14, 1946.

Col. I	Column II	Column III	Column IV
Reference No.	Description of wool fabric	At or below OPA ceiling price	Percentage of production required to be set-aside
1	Men's and boys' wear coatings	\$2.75 yd.	70
1a	Men's and boys' wear coatings	()	70
2	Men's and boys' wear suitings	\$2.75 yd.	70
2a	Men's and boys' wear suitings	()	70
3	Men's and boys' wear pantings	\$1.85 yd.	85

¹ Over \$2.75 yd. to and including \$3.00 yd.
² Any of this fabric delivered between Jan. 1, 1946, and Jan. 11, 1946, inclusive, on rated or unrated orders may be charged to this set-aside up to 15% of the set-aside.

PREFERENCE RATING SCHEDULE NO. 1—WOOL FABRICS FOR CIVILIAN ITEMS PROGRAM FOR FOURTH QUARTER 1945

(The applicable provisions of each column are indicated for each numbered item opposite the item number)

Item No.	Description of wool item	Size range	Maximum price column
Coats			
1	(Without fur trimming) Women's, Misses' and Juniors'	9-17, 12-44, 46 and up	Each \$16.75 18.75
2	Teen-age girls'	10-16	10.75
3	Girls'	7-14	8.75
4	Children's and small boys'	3-8	6.75
5	Toddler's	1-4	5.75
6	Infants'	6 months to 2 yrs.	4.75
Suits			
7	Women's, misses' and juniors'	9-17, 12-44, 46 and up	16.75 18.75
8	Teen-age girls'	10-16	10.75
9	Girls'	7-14	8.75
Skirts			
10	Women's, misses' and juniors'	9-17, 12-44, 46 and up	3.50 4.00
11	Teen-age girls'	10-16	3.00
12	Girls'	7-14	2.50
13	Children's	3-6	2.00
Suits			
14	Men's	All sizes	21.00
15	Students'	32-38	15.75
16	Cadets'	8-16	11.75
17	Juniors'	3-12	7.50
Separate trousers			
18	Men's	All sizes	Pair \$5.50
19	Students'	25-32	4.25
20	Cadets'	21-26	3.25
21	Juniors'	3-12, 6-16	2.50
Overcoats or topcoats			
22	Men's	All sizes	Each \$22.50
23	Students'	12-24, 32-38	12.75
24	Boys'	8-20	10.00
25	Juniors'	4-12	8.50

¹ See paragraph (d) (7) for suits made from fabric received after Jan. 1, 1946.

PREFERENCE RATING SCHEDULE NO. 2—WOOL FABRICS FOR CIVILIAN ITEMS PROGRAM FOR FIRST QUARTER 1946

Item No.	Description of wool item	Size range	Maximum price column
SUITS			
1	Men's	All sizes	\$22.50
1a	Men's (for tailors-to-the-trade only) ¹	All sizes	28.50
2	Students'	32-38	15.75
3	Cadets'	8-16	11.75
4	Juniors'	3-12	7.50
SEPARATE TROUSERS			
5	Men's	All sizes	5.50
6	Students'	25-32	4.25
7	Cadets'	21-26	3.25
8	Juniors'	3-12, 6-16	2.50
OVERCOATS OR TOPCOATS			
9	Men's	All sizes	22.50
10	Students'	12-24, 32-38	12.75
11	Boys'	8-20	10.00
12	Juniors'	4-12	8.50

¹ See paragraph (i).
[F. R. Doc. 46-2549; Filed, Feb. 14, 1946; 5:02 p. m.]

Chapter XI—Office of Price Administration
PART 1499—COMMODITIES AND SERVICES
[MPR 580, Amdt. 9]
RETAIL CEILING PRICES FOR CERTAIN APPAREL AND HOUSE FURNISHINGS

A statement of considerations involved in the issuance of this amendment, is-

sued simultaneously herewith, has been filed with the Division of the Federal Register.

Maximum Price Regulation 580 is amended in the following respects:

1. Section 1 (c) is amended to read as follows:

(c) *What sellers are covered*. This regulation applies to any seller who sells to individual ultimate consumers more than 10 percent of the merchandise covered by this regulation which he buys and sells in substantially the same form. Articles which are bought in substantially the same form are defined in Section 24 (b). (However, any seller whose annual net dollar volume of total sales to individual ultimate consumers of all the articles covered by this regulation amounts to less than \$2500, or any seller, all of whose sales to individual ultimate consumers are "accommodation sales" as defined in section 6.3 (b) of Second Revised Supplementary Regulation 14² may elect to continue to fix his ceiling prices under the regulation which applied before issuance of this regulation. The seller may not subsequently alter this election.)

Notwithstanding any other provisions of this paragraph (c) any seller at retail of an article for which a ceiling price has been established under Section 13 of this regulation or for which a pricing method has been established under a general retail order issued under this regulation, shall, with respect to the sale of that article, be subject to that section or that order as the case may be.

The word "seller" refers to each separate seller covered by this regulation. If a seller makes sales at retail through more than one selling unit or department, each selling unit or department is considered to be a separate seller, subject to all the provisions of this regulation.

A person who sells through salesmen making sales at uniform prices, is a single separate seller. All of the selling outlets of a chain which are included in one group, zone, class or area under a uniform pricing order, or which, in the absence of a uniform pricing order, constitute a group to which until March 6, 1946 the chain regularly sent invoices or statements showing the same selling prices (and not showing costs) for articles, are subject to the provisions of this regulation as a single separate seller with respect to the sale of all articles covered by this regulation which the chain buys and sells (through those outlets) in substantially the same form.

2. Section 7 is amended by adding paragraph (f) to read as follows:

¹ 10 F.R. 3015, 3468, 3642, 4236, 4494, 4611, 9962.

² 10 F.R. 1154, 10 F.R. 2026, 10 F.R. 2161, 10 F.R. 2432. "Accommodation sale" means a sale made entirely without profit, solely for the benefit or convenience of the purchaser—for example, a sale by an employer to his employees, or by a school to its students—and not for the purpose of promoting trade. It does not include sales by cooperative, non-profit or other organizations which make sales initially above cost, but later give refunds, bonuses, dividends, or other allowances to purchasers.

(f) *Rule 6: Articles of a category which cannot be priced under any of the foregoing rules.* If the article you are pricing cannot be priced under any of the foregoing rules in this section and you have filed a base date pricing chart, you figure your maximum price under this rule. If you cannot price under this rule you determine your price under Section 10.

(1) *Articles which belong to Categories 101-607 inclusive.* (i) If the article you are pricing is included in any category from 101-607 except categories 204, 214 or 353 and you have at least three categories of this group³ on your chart, you list as many of these categories as you have on your chart, setting forth opposite each, your average percentage markup⁴ for each category.

(ii) Compute the "group average" for these categories. You do this by adding together all the average markups for the categories you have listed and dividing this sum by the number of categories which you have listed.

(iii) You next turn to the table in Appendix E. The top row of the chart is divided into a series of percentage brackets. In the first column to the left find the category number which includes the article you are pricing. Follow this category number across and find the markup which appears in the column under the percentage bracket which includes the "group average" which you computed under subdivision (ii). This is your percentage of markup over cost for the new category.

(iv) Multiply the net cost of the article you are pricing by this percentage markup. Add the result to the net cost of the article. This final result is your maximum price for the article you are pricing.

Example 9: You wish to price a set of boy's ear muffs on which your net cost is 50 cents. Ear muffs belong to Category 123 on the MPR 580 chart. You find, on examining your chart, that neither this category, nor any one of the "comparable" categories 103, 107, 112, or 218 is listed on your chart.

Since category 123 belongs to the group of categories numbered from 101-607 inclusive, you look on your chart to find

whether you have listed at least three categories in this group. If you do not have at least three such categories listed on your chart, (excluding categories 204, 214, and 353) you cannot use this pricing rule and the ear muffs must be priced under Section 10.

Let us assume that actually you have listed on your chart articles belonging to eight categories of this group of numbers. These categories have percentage markups over cost as follows:

Category:	Average percentage markup
102	63
105	63
110	63
116	65
215	62
217	68
302	65
304	60

You next compute your "group average" for all these categories by adding the average markups for these categories and dividing the result by the number of categories which you have listed above (509÷8). Your "group average" is 63.625%.

You next turn to the table in Appendix E. In the first column to the left you will find a series of category numbers. Follow this column downward until you reach category 123. Follow this row across the table until you come to the percentage bracket appearing in the top row of the table which includes your "group average"—in this case the bracket designated "over 62 including 65." At this point you will find that the allowable percentage markup for category 123 is 65.7%. This is your percentage markup for this category and for the article you are pricing.

You next multiply the net cost of the article you are pricing by this percentage markup ($50 \times 65.7 = \$3.285$). Add this figure to your net cost of the article you are pricing ($50 + \$3.285$). The result ($\3.285 or $\$.83$) is your ceiling price for the article you are pricing.

(2) *Articles which belong to categories 701-752 inclusive.* If the article you are pricing is included in one of the categories from 701-752 inclusive, and you have at least three categories of this group³ on your chart, you list as many of these categories as you have on your chart, setting forth opposite each, your average percentage markup for each category and figure your ceiling price by using the same method as set forth in subparagraph (1) (ii) (iii) and (iv).

(3) *Articles which belong to categories 801-854 inclusive.* If the article you are pricing is included in one of the categories from 801-854 inclusive, and you have at least three categories of this group³ on your chart, you list as many of

these categories as you have on your chart, setting forth opposite each, your average percentage markup for each category and figure your ceiling price by using the same method as set forth in subparagraph (1) (ii) (iii) and (iv).

(4) *Articles which belong to categories which cannot be priced under this pricing rule.* If the article you are pricing is included in categories 204, 214, 353 or in any other category which cannot be priced under this pricing rule, you price such article under Section 10.

3. Paragraph (a) of section 8 is amended to read as follows:

(a) *All sellers other than mail-order establishments.* Except as provided in paragraph (b) below, you must begin to use pricing rules 1 to 5 inclusive of section 7, where applicable, on April 20, 1945, and rule 6 of that section, if applicable on March 6, 1946, and after whichever of these dates applies to you, you may not offer, sell or deliver any article covered by this regulation at a price higher than the maximum prices fixed under section 7 of this regulation.

4. Section 10 is amended to read as follows:

Sec. 10. *Maximum prices for sellers who cannot price under other sections of the regulation.* (a) If you cannot fix your ceiling price for an article under Section 7, 9, 12, 13 or General Retail Order No. 3, you figure your ceiling price for that article under this section. However, you may not sell or deliver an article which you are required to price under this section until you have first filed with your OPA District Office whichever of the reports, set forth below, is applicable to you.

(1) *Retailers who have never priced under Section 10 prior to March 6, 1946.* (i) On and after March 6, 1946 if you have never priced an article under this section you figure your ceiling price for all articles which must be priced under this section as follows: Turn to the table in Appendix F. On the left side is listed a column of category numbers; opposite each category number is a percentage markup. Find the percentage markup for the category to which the article you are pricing belongs. Multiply the net cost of the article you are pricing by this percentage markup. Add the result, so obtained, to the net cost of the article. The result is your ceiling price for the article you are pricing.

(ii) *Reports.* You may not sell or deliver any article which you are required to price under this section until you have filed with your OPA District Office two copies of one of whichever of the following reports is applicable, signed by you or your duly authorized agent, and have received from OPA a written acknowledgment thereof.

(a) If you have filed a base date pricing chart, a statement to that effect,

³ Group as defined in this regulation includes any category which appears in this series of category numbers excluding categories 204, 214 and 353.

⁴ Computations under this section are based on markups over cost. If you are on the "retail system," that is, if your chart markups are expressed as percentages of selling prices, you must convert your category markups to markups over cost. You do this by subtracting your average percentage markup over sales for the category from 100%. You divide the result thus obtained into your percentage of markup on selling price. After the percentage of markup on selling price for all your categories have been converted to markups on cost you proceed as set forth above.

⁵ See footnote 3.

⁶ See footnote 3.

and a list of the categories you intend to price under subdivision (i);

(b) If you have not filed a base date pricing chart, a statement to that effect and a statement containing the following information:

(1) Your name and address, or your proposed name and address and the names and addresses of all owners, stockholders or officers of the business establishment. (Owners holding less than 10% of the total number of shares of corporate applicants need not be listed.)

(2) The date or the proposed date of the organization of the business establishment.

(3) Your previous business connections (if the business is individually owned) or the previous connections of the owners, stockholders or officers of the business establishment with any business handling MPR 580 merchandise or related merchandise.

(4) The names and addresses of other selling establishments under this regulation which you own or operate, if you are an individual owner, or which any of the owners, stockholders or officers of the business establishment own or operate.

(5) A list of the articles which you intend to price under this section after March 6, 1946.

(6) The type of store you operate or intend to operate (specialty shop, dry-goods, or men's furnishings, etc.).

(7) The class of merchandise and cost line which you handle or propose to handle (low, medium or high priced; regular or novelty; popular or exclusive).

(8) The amount of annual business you have done, for the 12 month period preceding date of application.

(9) Special services which you offer or intend to offer; installment selling, charge accounts, other credit terms, or free delivery service, etc.

(10) A list of names and addresses of three sellers whose method of doing business is most nearly like yours or like the type of business you intend to conduct.

(11) If you are a leased department, the name and address of the prior lessee.

(2) *Retailers who have priced articles under Section 10 prior to March 6, 1946:* If you have priced any article under section 10 prior to March 6, 1946, you determine your ceiling prices for articles required to be priced under this section as follows:

(i) Your ceiling price for an article properly determined, under this section prior to March 6, 1946, shall remain the ceiling price of that article until April 1, 1946.

(ii) You fix the ceiling price of an article for which you have not determined a ceiling price prior to March 6, 1946, under the provisions of the regulation which on the base date covered sales at retail of the article you are pricing. Any

price thus determined shall remain the ceiling price of that article until April 1, 1946.

(iii) On and after April 1, 1946, you figure your ceiling price for all articles which you have prior to that date priced under section 10 and all articles which you price under this section after April 1, 1946, as follows: Turn to the table in Appendix F. On the left hand side is listed a column of category numbers with a percentage markup opposite each. Find the percentage markup for the category to which the article you are pricing belongs. Multiply the net cost of the article you are pricing by this percentage markup. Add the result, so obtained, to the net cost of the article. The result is your ceiling price for the article you are pricing.

(iv) *Reports.* After April 1, 1946, you may not sell or deliver any article which you are required to price under this section until you have filed with your OPA District Office, two copies of one of whichever of the following reports is applicable, signed by you or a duly authorized agent and have received from OPA a written acknowledgment thereof:

(a) If you have filed a base date pricing chart, a statement to that effect, and a list of the categories you intend to price under this subparagraph (2);

(b) If you have not filed a base date pricing chart, a statement to that effect and a further statement containing the following information:

(1) Your name and address.

(2) A list of all the articles priced by you under this section which you sold or offered for sale on March 6, 1946 setting forth your last invoice net cost for such article, your ceiling price therefor (which should not be higher than the ceiling price legally established under Section 10), the regulation or order and section under which you determined your prices.

(3) The names and addresses of your three most competitive sellers of the same class.

(b) *Application for markups in excess of Appendix F.* (1) You may apply to the OPA District Office having jurisdiction over the area in which your business is located for authorization to use markups in excess of those set forth in Appendix F, and the OPA may, by order, authorize such higher markups if it appears that:

(i) You already own one or more established stores selling MPR 580 merchandise with markups higher than those set forth in Appendix F; or

(ii) You already own one or more establishments selling goods not covered by MPR 580 at markups, which for such goods represent markups higher than average; or

(iii) You, (if you are an individually owned establishment), or any of the

principal stockholders or managing officers had previous experience in selling MPR 580 merchandise or related commodities as an owner, officer, principal, or employee in an executive or managerial capacity in a business handling MPR 580 merchandise at markups higher than those listed in Appendix F and have not operated at or below the markups set forth in Appendix F since the base period;

(2) *Filing and contents of application.* Applications must be made by filing with your OPA District Office two copies of a separate letter signed by you or a duly authorized agent. Such letter must set forth any additional information, which, together with the information given in your report filed under paragraph (b), establishes that you meet at least one of the conditions set forth in paragraph (b) (1).

(c) The authorization granted in paragraph (a) or any authorization issued pursuant to paragraph (b) may be revised or revoked at any time by the Office of Price Administration.

5. Section 16 (a) (2) is amended to read as follows:

(a) Before selling or offering for sale any article covered by this regulation which is delivered to you on or after April 20, 1945, you must "retail" the invoice, that is, you must mark your first selling price for each article on the invoice covering your purchase of the article, and the number of the sections or the pricing rules under MPR 580 or the general retail order or other order under which you figured your maximum price for the article. If under Section 10, you are required to fix your ceiling prices under the pricing provisions of any other regulations, state the regulation and the section therein under which you fixed your ceiling. (The pricing rule and method may be stated merely as "Rule 1" or "Rule 3" or "Rule 6" or "MPR 177 Section 2 (a)" or "GMPR Section 3 (a)" or "Appendix F" of Section 10 or Order No. of "Sec. 10.") If the invoice does not state the quantity of each article, style, model or lot number which it covers, you must also enter the quantity on each invoice.

6. Section 20 (c) is amended by deleting the last sentence beginning, "Such sales of yard goods * * *" and inserting in its place the following: "Such sales of yard goods are covered by the applicable regulation, such as MPR 39 (Woven Decorated Fabrics), MPR 118 (Cotton Products); MPR 127 (Finished Piece Goods); MPR 163 (Woolen and Worsted Civilian Apparel Fabrics); MPR 508 (Rayon Knit Fabrics and the Knitting Thereof), or the GMPR."

7. Appendix E is added (following Appendix D) to read as follows:

APPENDIX E

TABLE FOR FIXING IN-LINE CATEGORY MARK-UPS UNDER RULE 6 OF SECTION 7

Your average percentage mark-up bracket																								
Category you are pricing	Under and including 35	Over 35, including 38	Over 38, including 41	Over 41, including 44	Over 44, including 47	Over 47, including 50	Over 50, including 53	Over 53, including 56	Over 56, including 59	Over 59, including 62	Over 62, including 65	Over 65, including 68	Over 68, including 71	Over 71, including 74	Over 74, including 77	Over 77, including 80	Over 80, including 83	Over 83, including 86	Over 86, including 89	Over 89, including 92	Over 92, including 95	Over 95, including 98	Over 98	
Group I:																								
101	36.1	39.4	42.6	45.8	49.1	52.3	55.5	58.8	62.0	65.2	68.5	71.7	74.9	78.2	81.4	84.7	87.9	91.1	94.4	97.6	100.8	104.1	107.3	
102	34.2	37.3	40.3	43.4	46.4	49.5	52.6	55.6	58.7	61.8	64.8	67.9	70.9	74.0	77.1	80.1	83.2	86.3	89.3	92.4	95.4	98.5	101.6	
103	32.7	35.6	38.6	41.5	44.4	47.3	50.3	53.2	56.1	59.0	62.0	64.9	67.8	70.8	73.7	76.6	79.5	82.5	85.4	88.3	91.3	94.2	97.1	
104	34.8	38.0	41.1	44.2	47.3	50.4	53.5	56.6	59.7	62.9	66.0	69.2	72.3	75.4	78.5	81.6	84.8	87.9	91.0	94.1	97.2	100.4	103.5	
105	28.5	31.1	33.6	36.2	38.7	41.3	43.8	46.4	48.9	51.5	54.1	56.6	59.2	61.7	64.3	66.8	69.4	71.9	74.5	77.0	79.6	82.1	84.7	
106	33.2	36.2	39.2	42.2	45.1	48.1	51.0	54.1	57.0	60.0	63.0	66.0	68.9	71.9	74.9	77.9	80.8	83.8	86.8	89.8	92.8	95.7	98.7	
107	31.6	34.4	37.2	40.1	42.9	45.7	48.5	51.4	54.2	57.0	59.8	62.7	65.5	68.3	71.2	74.0	76.8	79.6	82.5	85.3	88.1	90.9	93.8	
108	33.7	36.7	39.8	42.8	45.8	48.8	51.8	54.8	57.9	60.9	63.9	66.9	69.9	73.0	76.0	79.0	82.0	85.0	88.1	91.1	94.1	97.1	100.1	
109	33.7	36.7	39.8	42.8	45.8	48.8	51.8	54.8	57.9	60.9	63.9	66.9	69.9	73.0	76.0	79.0	82.0	85.0	88.1	91.1	94.1	97.1	100.1	
110	31.1	33.9	36.7	39.4	42.2	45.0	47.8	50.6	53.4	56.1	58.9	61.7	64.5	67.3	70.1	72.8	75.6	78.4	81.2	84.0	86.8	89.6	92.3	
111	19.0	20.7	22.4	24.1	25.8	27.5	29.3	31.0	32.7	34.4	36.1	37.8	39.5	41.2	42.9	44.6	46.3	48.0	49.7	51.4	53.1	54.8	56.5	
112	31.1	33.9	36.7	39.4	42.2	45.0	47.8	50.6	53.4	56.1	58.9	61.7	64.5	67.3	70.1	72.8	75.6	78.4	81.2	84.0	86.8	89.6	92.3	
113	31.6	34.5	37.3	40.1	43.0	45.8	48.6	51.4	54.3	57.1	59.9	62.8	65.6	68.4	71.3	74.1	76.9	79.8	82.6	85.4	88.3	91.1	93.9	
114	35.7	38.9	42.1	45.3	48.5	51.7	54.9	58.1	61.3	64.5	67.7	70.9	74.1	77.3	80.5	83.6	86.8	90.0	93.2	96.4	99.6	102.8	106.0	
115	32.6	35.6	38.5	41.4	44.3	47.3	50.2	53.1	56.0	59.0	61.9	64.8	67.7	70.6	73.5	76.5	79.4	82.3	85.3	88.2	91.1	94.0	97.0	
116	33.0	35.9	38.9	41.8	44.8	47.7	50.7	53.6	56.6	59.5	62.5	65.4	68.4	71.3	74.3	77.2	80.2	83.1	86.1	89.1	92.0	95.0	97.9	
117	32.2	35.1	38.0	40.9	43.8	46.6	49.5	52.4	55.3	58.2	61.1	63.9	66.8	69.7	72.6	75.5	78.4	81.3	84.1	87.0	89.9	92.8	95.7	
118	33.1	36.0	39.0	42.0	44.9	47.9	50.8	53.8	56.8	59.7	62.7	65.6	68.6	71.5	74.5	77.5	80.5	83.4	86.4	89.3	92.3	95.3	98.2	
119	35.2	38.3	41.5	44.6	47.8	50.9	54.1	57.2	60.4	63.5	66.6	69.7	72.8	75.9	79.0	82.1	85.2	88.3	91.4	94.5	97.6	100.7	103.8	
120	39.0	42.5	45.9	49.4	52.9	56.4	59.9	63.4	66.9	70.4	73.9	77.4	80.9	84.3	87.8	91.3	94.8	98.3	101.8	105.3	108.8	112.2	115.8	
121	37.3	40.6	43.9	47.3	50.6	53.9	57.3	60.6	63.9	67.3	70.6	73.9	77.3	80.6	84.0	87.3	90.6	94.0	97.3	100.6	104.0	107.3	110.7	
122	35.6	38.8	42.0	45.2	48.4	51.6	54.8	58.0	61.2	64.4	67.6	70.8	73.9	77.1	80.3	83.5	86.7	89.9	93.1	96.3	99.5	102.7	105.9	
123	34.7	37.8	40.9	44.0	47.1	50.2	53.3	56.4	59.5	62.6	65.7	68.8	71.9	75.1	78.2	81.3	84.4	87.5	90.6	93.7	96.8	99.9	103.0	
124	35.9	39.1	42.3	45.5	48.7	51.9	55.1	58.3	61.5	64.8	68.0	71.2	74.4	77.6	80.8	84.0	87.2	90.4	93.7	96.9	100.1	103.3	106.5	
201	37.6	40.9	44.3	47.7	51.0	54.4	57.8	61.1	64.5	67.9	71.2	74.6	78.0	81.3	84.7	88.0	91.4	94.8	98.1	101.5	104.9	108.2	111.6	
202	35.6	38.8	42.0	45.2	48.4	51.6	54.7	57.9	61.1	64.3	67.5	70.6	73.8	77.0	80.2	83.4	86.6	89.8	93.0	96.2	99.3	102.5	105.7	
203	38.2	41.6	45.1	48.5	51.9	55.3	58.8	62.2	65.6	69.0	72.4	75.9	79.3	82.7	86.1	89.5	93.0	96.4	99.8	103.2	106.7	110.1	113.5	
204	34.4	37.4	40.5	43.6	46.7	49.7	52.8	55.9	59.0	62.0	65.1	68.2	71.3	74.4	77.4	80.5	83.6	86.7	89.7	92.8	95.9	99.0	102.1	
205	34.2	37.3	40.3	43.4	46.4	49.5	52.6	55.6	58.7	61.8	64.8	67.9	70.9	74.0	77.1	80.1	83.2	86.3	89.3	92.4	95.4	98.5	101.6	
207	32.9	35.8	38.7	41.7	44.6	47.6	50.5	53.5	56.4	59.4	62.3	65.3	68.2	71.2	74.1	77.0	80.0	83.0	86.0	89.0	92.0	95.0	97.9	
208	32.6	35.6	38.5	41.4	44.3	47.3	50.2	53.1	56.0	59.0	61.9	64.8	67.7	70.6	73.5	76.5	79.4	82.3	85.3	88.2	91.1	94.0	97.0	
209	35.0	38.1	41.3	44.4	47.5	50.7	53.8	56.9	60.1	63.2	66.3	69.4	72.5	75.6	78.7	81.8	84.9	88.0	91.1	94.2	97.3	100.4	103.5	
210	36.3	39.6	42.8	46.1	49.4	52.6	55.9	59.1	62.4	65.6	68.9	72.1	75.4	78.6	81.9	85.2	88.4	91.7	94.9	98.2	101.4	104.7	108.0	
211	34.5	37.6	40.7	43.8	46.9	50.0	53.1	56.2	59.3	62.4	65.5	68.6	71.7	74.8	77.9	81.0	84.1	87.2	90.3	93.4	96.5	99.6	102.7	
212	37.2	40.5	43.9	47.2	50.5	53.9	57.2	60.5	63.8	67.2	70.5	73.8	77.2	80.5	83.8	87.2	90.5	93.8	97.2	100.5	103.8	107.2	110.5	
213	33.7	36.7	39.8	42.8	45.8	48.8	51.8	54.8	57.9	60.9	63.9	66.9	69.9	73.0	76.0	79.0	82.0	85.0	88.1	91.1	94.1	97.1	100.1	
215	34.6	37.7	40.8	43.9	47.0	50.1	53.1	56.2	59.3	62.4	65.5	68.6	71.7	74.8	77.9	81.0	84.1	87.2	90.3	93.4	96.5	99.6	102.7	
216	35.3	38.5	41.6	44.8	48.0	51.1	54.3	57.5	60.6	63.8	67.0	70.1	73.3	76.4	79.6	82.8	85.9	89.1	92.3	95.4	98.6	101.7	104.9	
217	35.8	39.0	42.2	45.4	48.6	51.8	55.0	58.2	61.4	64.7	67.9	71.1	74.3	77.5	80.7	83.9	87.1	90.3	93.5	96.7	99.9	103.1	106.4	
218	35.0	38.1	41.3	44.4	47.5	50.7	53.8	56.9	60.1	63.2	66.3	69.4	72.5	75.6	78.7	81.8	84.9	88.0	91.1	94.2	97.3	100.4	103.5	
301	36.0	39.2	42.5	45.7	48.9	52.1	55.4	58.6	61.8	65.0	68.3	71.5	74.7	78.0	81.2	84.4	87.6	90.9	94.1	97.3	100.5	103.8	107.0	
302	32.9	35.9	38.8	41.8	44.7	47.6	50.6	53.5	56.5	59.4	62.4	65.3	68.3	71.2	74.2	77.1	80.1	83.0	86.0	89.0	92.0	95.0	97.9	
303	31.9	34.8	37.7	40.5	43.4	46.2	49.1	52.0	54.9	57.7	60.6	63.4	66.3	69.1	72.0	74.9	77.7	80.6	83.4	86.3	89.2	92.0	94.9	
304	34.1	37.2	40.3	43.3	46.4	49.4	52.5	55.5	58.6	61.7	64.7	67.8	70.9	73.9	76.9	80.0	83.1	86.1	89.2	92.2	95.3	98.4	101.4	
305	32.4	35.3	38.2	41.1	44.0	46.9	49.8	52.7	55.6	58.5	61.4	64.3	67.2	70.1	73.0	75.9	78.8	81.7	84.6	87.5	90.4	93.3	96.2	
306	32.4	35.3	38.2	41.1	44.0	46.9	49.8	52.8	55.7	58.6	61.5	64.4	67.3	70.2	73.1	76.0								

TABLE FOR FIXING IN-LINE CATEGORY MARK-UPS UNDER RULE 6 OF SECTION 7—Continued

Category you are pricing		Your average percentage mark-up bracket																							
		Under and including 62	Over 62, including 65	Over 65, including 68	Over 68, including 71	Over 71, including 74	Over 74, including 77	Over 77, including 80	Over 80, including 83	Over 83, including 86	Over 86, including 89	Over 89, including 92	Over 92, including 95	Over 95, including 98	Over 98, including 101	Over 101, including 104	Over 104, including 107	Over 107, including 110	Over 110, including 113	Over 113, including 116	Over 116, including 119	Over 119, including 122	Over 122, including 125	Over 125	
Group II:		64.9	68.1	71.3	74.5	77.7	80.9	84.2	87.4	90.6	93.8	97.0	100.2	103.5	106.7	109.8	113.1	116.3	119.5	122.8	126.0	129.2	132.4	135.6	
701		64.9	68.1	71.3	74.5	77.7	80.9	84.2	87.4	90.6	93.8	97.0	100.2	103.5	106.7	109.8	113.1	116.3	119.5	122.8	126.0	129.2	132.4	135.6	
702		65.6	68.8	69.9	73.1	76.2	79.4	82.5	85.7	88.8	92.0	95.1	98.3	101.5	104.6	107.8	110.9	114.0	117.2	120.4	123.5	126.7	129.8	133.0	
703		66.3	69.5	66.8	69.8	72.8	75.8	78.8	81.9	84.9	87.9	90.9	93.9	96.9	99.9	102.9	106.0	109.0	112.0	115.0	118.0	121.0	124.0	127.1	
704		65.4	66.6	69.7	72.8	76.0	79.1	82.3	85.4	88.6	91.7	94.9	98.0	101.1	104.3	107.4	110.6	113.7	116.9	120.0	123.2	126.3	129.4	132.6	
705		65.1	68.4	71.6	74.8	78.0	81.3	84.5	87.7	91.0	94.2	97.4	100.7	103.9	107.1	110.3	113.6	116.8	120.0	123.3	126.5	129.7	132.9	136.2	
706		71.4	75.0	78.5	82.0	85.6	89.1	92.7	96.2	99.7	103.3	106.8	110.3	113.9	117.4	121.0	124.5	128.1	131.6	135.1	138.7	142.2	145.8	149.3	
707		59.8	62.8	65.8	68.7	71.7	74.7	77.6	80.6	83.6	86.5	89.5	92.5	95.4	98.4	101.4	104.3	107.3	110.3	113.2	116.2	119.2	122.2	125.1	
708		63.4	66.6	69.7	72.8	76.0	79.1	82.3	85.4	88.6	91.7	94.9	98.0	101.1	104.3	107.4	110.6	113.7	116.9	120.0	123.2	126.3	129.4	132.6	
709		59.2	62.2	65.1	68.1	71.0	73.9	76.9	79.8	82.7	85.7	88.6	91.6	94.5	97.4	100.4	103.3	106.2	109.2	112.1	115.1	118.0	121.0	123.9	
710		65.7	69.0	72.2	75.5	78.8	82.0	85.3	88.5	91.7	95.1	98.3	101.6	104.8	108.1	111.3	114.6	117.9	121.1	124.4	127.6	130.9	134.2	137.4	
711		64.0	67.2	70.4	73.5	76.7	79.9	83.0	86.2	89.4	92.6	95.7	98.9	102.1	105.3	108.4	111.6	114.8	118.0	121.1	124.3	127.5	130.7	133.8	
712		62.1	65.2	68.2	71.3	74.4	77.5	80.6	83.6	86.7	89.8	92.9	96.0	99.0	102.1	105.2	108.3	111.3	114.4	117.5	120.6	123.7	126.7	129.8	
713		59.0	62.0	64.9	67.8	70.8	73.7	76.6	79.5	82.5	85.4	88.3	91.3	94.2	97.1	100.0	103.0	105.9	108.8	111.7	114.7	117.6	120.5	123.5	
714		64.9	68.1	71.4	74.6	77.8	81.0	84.2	87.5	90.7	93.9	97.1	100.3	103.6	106.8	110.0	113.2	116.4	119.7	122.9	126.1	129.3	132.5	135.8	
715		57.7	60.6	63.4	66.3	69.2	72.0	74.9	77.8	80.6	83.5	86.3	89.2	92.1	94.9	97.8	100.6	103.5	106.4	109.2	112.1	115.0	117.8	120.7	
716		52.7	55.3	57.9	60.5	63.2	65.8	68.4	71.0	73.6	76.2	78.8	81.4	84.1	86.7	89.3	91.9	94.5	97.1	99.7	102.3	105.0	107.6	110.1	
717		58.2	61.1	64.0	66.8	69.7	72.6	75.5	78.4	81.3	84.2	87.0	89.9	92.8	95.7	98.6	101.5	104.3	107.2	110.1	113.0	115.9	118.8	121.7	
718		51.4	54.0	56.5	59.1	61.6	64.2	66.7	69.3	71.8	74.4	76.9	79.5	82.1	84.6	87.2	89.7	92.3	94.8	97.4	99.9	102.5	105.0	107.6	
719		54.4	57.1	59.8	62.5	65.2	67.9	70.6	73.3	76.0	78.7	81.4	84.1	86.8	89.5	92.2	94.9	97.6	100.3	103.0	105.7	108.4	111.1	113.8	
720		62.5	65.6	68.7	71.8	74.9	78.0	81.1	84.2	87.3	90.4	93.5	96.6	99.7	102.8	105.9	109.0	112.1	115.2	118.3	121.4	124.5	127.5	130.6	
721		46.7	49.1	51.4	53.7	56.0	58.3	60.7	63.0	65.3	67.6	69.9	72.2	74.6	76.9	79.2	81.5	83.8	86.2	88.5	90.8	93.1	95.4	97.7	
722		65.3	68.5	71.7	75.0	78.2	81.4	84.7	87.9	91.1	94.4	97.6	100.9	104.1	107.3	110.6	113.8	117.0	120.3	123.5	126.7	130.0	133.2	136.5	
723		55.6	58.4	61.1	63.9	66.6	69.4	72.2	74.9	77.7	80.4	83.2	85.9	88.7	91.5	94.2	97.0	99.7	102.5	105.2	108.0	110.8	113.5	116.3	
732		59.4	62.4	65.3	68.3	71.2	74.2	77.1	80.1	83.0	86.0	88.9	91.9	94.8	97.8	100.7	103.7	106.6	109.6	112.5	115.4	118.4	121.3	124.3	
Category you are pricing		Under and including 35	Over 35, including 38	Over 38, including 41	Over 41, including 44	Over 44, including 47	Over 47, including 50	Over 50, including 53	Over 53, including 56	Over 56, including 59	Over 59, including 62	Over 62, including 65	Over 65, including 68	Over 68, including 71	Over 71, including 74	Over 74, including 77	Over 77, including 80	Over 80, including 83	Over 83, including 86	Over 86, including 89	Over 89, including 92	Over 92, including 95	Over 95, including 98	Over 98	
		35.4	38.6	41.8	44.9	48.1	51.3	54.5	57.6	60.8	64.0	67.2	70.3	73.5	76.7	79.8	83.0	86.2	89.4	92.5	95.7	98.9	102.0	105.2	
Group III:		35.4	38.6	41.8	44.9	48.1	51.3	54.5	57.6	60.8	64.0	67.2	70.3	73.5	76.7	79.8	83.0	86.2	89.4	92.5	95.7	98.9	102.0	105.2	
801		35.1	38.2	41.4	44.5	47.7	50.8	53.9	57.1	60.2	63.4	66.5	69.7	72.8	75.9	79.1	82.2	85.4	88.5	91.7	94.8	97.9	101.1	104.2	
802		36.1	39.3	42.6	45.8	49.0	52.3	55.5	58.7	62.0	65.2	68.4	71.6	74.9	78.1	81.3	84.6	87.8	91.0	94.3	97.5	100.7	104.0	107.2	
803		36.3	39.6	42.8	46.1	49.3	52.6	55.8	59.1	62.3	65.6	68.8	72.1	75.3	78.6	81.8	85.1	88.3	91.6	94.8	98.1	101.3	104.6	107.8	
804		31.0	33.8	36.6	39.4	42.1	44.9	47.7	50.5	53.3	56.0	58.8	61.6	64.4	67.2	69.9	72.7	75.5	78.3	81.1	83.8	86.6	89.4	92.2	
805		28.4	31.0	33.5	36.1	38.6	41.2	43.7	46.3	48.8	51.4	53.9	56.5	59.0	61.5	64.1	66.6	69.2	71.7	74.3	76.8	79.4	81.9	84.5	
806		35.4	38.6	41.7	44.9	48.1	51.2	54.4	57.6	60.7	63.9	67.0	70.2	73.4	76.6	79.7	82.9	86.1	89.2	92.4	95.6	98.8	101.9	105.1	
821		34.5	37.6	40.7	43.8	46.9	50.0	53.0	56.1	59.2	62.3	65.4	68.5	71.6	74.7	77.8	80.9	83.9	87.0	90.1	93.2	96.3	99.4	102.5	
833		31.4	34.2	37.0	39.8	42.7	45.5	48.3	51.1	53.9	56.7	59.5	62.3	65.2	68.0	70.8	73.6	76.4	79.2	82.0	84.9	87.7	90.5	93.3	
854		31.1	33.9	36.7	39.6	42.3	45.0	47.8	50.6	53.4	56.2	59.0	61.8	64.6	67.3	70.1	72.9	75.7	78.5	81.3	84.1	86.8	89.6	92.4	

8. Appendix F is added (following Appendix E) to read as follows:

APPENDIX F

TABLE FOR FIXING CATEGORY MARK-UPS UNDER SECTION 10

Category you are pricing:	Per-centage mark-up on cost	Category you are pricing:	Per-centage mark-up on cost
101	67.4	208	60.9
102	63.8	209	65.3
103	61.0	210	67.8
104	65.0	211	64.4
105	53.2	212	69.4
106	62.0	213	62.9
107	58.9	214	81.6
108	62.9	215	64.5
109	62.9	216	65.9
110	58.0	217	66.8
111	35.5	218	65.3
112	58.0	301	67.2
113	59.0	302	61.4
114	66.6	303	59.6
115	60.9	304	63.7
116	61.5	305	60.4
117	60.1	306	60.5
118	61.7	307	61.3
119	65.6	351	62.7
120	72.7	352	62.5
121	69.5	353	74.2
122	66.5	401	62.8
123	64.7	402	57.2
124	66.9	403	57.4
201	70.1	404	63.4
202	66.4	405	62.4
203	71.3	406	60.2
204	67.5	407	61.2
205	64.1	408	59.2
206	63.8	409	59.7
207	61.3	410	53.1

Category you are pricing: Per-centage mark-up on cost

501	56.4
502	58.8
503	61.2
504	61.9
505	60.0
506	65.1
507	67.9
601	66.1
602	60.4
603	61.4
604	64.7
605	64.9
606	68.5
607	58.0
701	98.1
702	96.2
703	91.9
704	95.9
705	98.5
706	108.0
707	90.5
708	95.9
709	89.6
710	99.4

This amendment shall become effective March 6, 1946.

NOTE: The reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2544; Filed, Feb. 14, 1946; 4:14 p. m.]

Chapter XXIII—War Assets Corporation¹

[SPA Reg. 16, Order 1]

PART 8316—SURPLUS AIRPORT PROPERTY

AUTHORITY TO WAR ASSETS CORPORATION FOR DISPOSAL OF ORCHARD PLACE AIRPORT, PARK RIDGE, COOK COUNTY, ILL.

The Orchard Place Airport, located at Park Ridge, Cook County, Illinois, consists of 1075.099 acres of Government-owned land and improvements. The property was declared surplus by the War Department on January 21, 1946, classified as airport real estate and assigned for disposition.

The City of Chicago represents that its present municipal airport is highly congested and that there is urgent and immediate need for supplemental airport facilities. It is represented that the City, if it acquires the airport, will be required to install lights, a localizer and other equipment which is not installed at present in order to accommodate the War Department at such time as its activities are transferred from the municipal airport to the Orchard Place Airport.

The City of Chicago desires to use the Orchard Place Airport as a part of an extensive air terminal to be constructed by the City. It proposes to acquire the

¹ Successor to Surplus Property Administration.

² 10 F.R. 14204, 14628, 14866.

remainder of the land needed for the air terminal, approximately 4,000 acres, by condemnation proceedings if necessary. It is further represented that the acquisition of this property will expedite the acquisition of the remainder of the land needed for the air terminal.

The Civil Aeronautics Administration has investigated the property and recommends the disposition to the City of Chicago of all surplus land, improvements, and operating and maintenance equipment, if any, included in the property.

Pursuant to the authority of the Surplus Property Act of 1944 (58 Stat. 765; 50 U. S. C. App. Sup. 1611), Public Law 181, 79th Congress, 1st Session (59 Stat. 533), and Executive Order 9689 (11 F. R. 1265), *It is hereby ordered, That:*

1. Notwithstanding the provisions of § 8316.15 (b), the War Assets Corporation, as disposal agency, after having given written notice of availability for a period of ten (10) days to all Government agencies listed in Exhibit A (Amdt. 1 to SPA Reg. 16, 10 F. R. 14628), and after having given public notice of availability to the State, its political subdivisions and all municipalities in the vicinity, in a newspaper published or having general circulation in the county and State in which said property is located, for a period of ten (10) days, is hereby authorized, in the absence of an acceptable proposal from a holder of a higher priority or a proposal from any State, municipality or local government having a priority equal to that of the City of Chicago, and showing a greater need, to negotiate with the representatives of the City of Chicago the terms of a sale to it of the Orchard Place Airport, located at Park Ridge, Cook County, Chicago, consisting of 1075.099 acres of land, more or less, together with all aviation easements, obstacle removal agreements, obstruction right agreements and drainage easements, all buildings, runways, taxiways, aprons, field drainage, field marking, and field lighting facilities, and easements required for their continued operation and maintenance, and all operating and maintenance equipment.

2. The foregoing property shall be offered for disposal subject to the conditions, reservations and restrictions set forth in §§ 8316.10, 8316.13 (a) and 8316.21 (1), together with the following reservation:

The reservation to the United States and its successors and assigns of the right of control and use, including the right of maintenance and repair, of all utilities serving that portion of the Chicago Aircraft Assembly Plant not included in the area to be disposed of hereunder. These utilities include but are not limited to:

(a) The railroad line running from the Chicago and Northwestern Railroad to that portion of the plant not included in the area to be disposed of hereunder.

(b) The gas main running in a northerly-southerly direction from Bryn Mawr Avenue to that portion of the plant not included in the area to be disposed of hereunder.

(c) The water line running in a northerly-southerly direction from Bryn Mawr

Avenue to that portion of the plant not included in the area to be disposed of hereunder.

(d) The sanitary system and pipelines connected therewith on the surplus property; *Provided*, That the portion of the plant not included in the area to be disposed of hereunder is dependent for sewage disposal, in any degree, on such system and pipelines.

(e) The heating system and pipelines on the surplus property; *provided*, That the portion of the plant not to be disposed of hereunder is dependent for heat, in any degree, on such system and pipelines.

3. In the absence of a proposal by a Government agency, or by a State or local government showing a greater need, submitted within the ten-day period provided above, the War Assets Corporation, as disposal agency, is authorized to dispose of the airport property described hereinabove to the City of Chicago, without a cash payment, in consideration of its assumption of all the obligations and its agreement to all of the reservations, restrictions, and conditions set out herein.

This order shall become effective February 14, 1946.

E. B. GREGORY,
*Lieutenant General, A. U. S.,
Chairman, Board of Directors,
War Assets Corporation.*

FEBRUARY 14, 1946.

[F. R. Doc. 46-2612; Filed, Feb. 15, 1946;
11:26 a. m.]

[SPA Reg. 16,¹ Order 2]

**PART 8316—SURPLUS AIRPORT PROPERTY
AUTHORITY TO WAR ASSETS CORPORATION FOR
DISPOSAL OF MORRIS FIELD LOCATED NEAR
THE CITY OF CHARLOTTE, N. C.**

Morris Field, located near the City of Charlotte, Mecklenburg County, North Carolina, consists of 542.66 acres of land leased as an airport from the City of Charlotte, 850.043 acres of land owned in fee, and improvements on both the leased and Government-owned land. The entire installation was declared surplus by the War Department on December 5, 1945. Following an investigation by the Civil Aeronautics Administration, it has been determined that a portion of the land owned by the Government in fee is essential for the operation of a municipal airport by the City of Charlotte. The area which has been classified as such airport property is delineated in red on the map² attached hereto.

The City of Charlotte has asserted its interest in the termination of the lease by the Government and the acquisition of that portion of land owned in fee which has been determined to be essential for the operation of a municipal airport, together with appurtenant easements for aviation purposes and easements required for the continued operation and maintenance of the night lighting system, the general water distribu-

tion system, the sewage disposal system, and the general electric distribution system. The City represents that there is urgent need for the airport for civilian and commercial use, and requests that it be given an opportunity to acquire the airport at the earliest possible date. The City further represents that a permit cannot be accepted due to a charter prohibition against the expenditure of funds on land not owned and occupied by the City. The Civil Aeronautics Administration recommends disposition to the City of Charlotte of that portion of the installation which has been classified as airport real estate, together with the improvements and operating and maintenance equipment required for the continued operation of the airport.

Pursuant to the authority of the Surplus Property Act of 1944 (58 Stat. 765; 50 U. S. C. App. Sup. 1611) Pub. Law 181, 79th Cong., 1st Sess. (59 Stat. 533) and Executive Order 9689 (11 F. R. 1265), *It is hereby ordered, That:*

1. Notwithstanding the provisions of section 8316.15 (b) the War Assets Corporation as disposal agency, after having given written notice of availability for a period of ten (10) days to all Government agencies listed in Exhibit A (Amdt. 1 to SPA Reg. 16, 10 F. R. 14628), and after having given public notice of availability to the State, its political subdivisions and all municipalities in the vicinity in a newspaper published or having general circularization in the county and State in which said property is located for a period of ten (10) days, is hereby authorized in the absence of an acceptable proposal from a holder of a higher priority or a proposal from any State, municipality or local government having a priority equal to that of the City of Charlotte, and showing a greater need, to negotiate with the representatives of the City of Charlotte the terms of a sale to it of the airport designated as Morris Field located near the City of Charlotte, Mecklenburg County, North Carolina and consisting of the land held under leasehold and a portion of the land owned by the Government in fee which has been determined to be essential for the operation of the municipal airport, the boundaries of said area being indicated in red on the map attached hereto. Said airport property shall also include all of the following:

(1) Appurtenant aviation easement;
(2) Runways, taxiways, aprons, drainage facilities, night lighting system, general water distribution system, sewage disposal system, and general electric distribution system, together with easements required for their continued operation and maintenance;

(3) Operating and maintenance equipment which has been previously determined by the Administrator to be essential for the operation of the airport.

2. The foregoing described airport property shall be offered for disposal subject to the following conditions, reservations and restrictions:

(1) The conditions, restrictions and reservations set forth in §§ 8316.10, 8316.13 (a) and 8316.21 (1);

(2) The reservation in the United States of the right to use and occupy, un-

¹ 10 F. R. 14204, 14628, 14866.

² Map on file with the Division of the Federal Register as part of the original document.

til such time as the Secretary of War, or his successor, notifies the City in writing that such areas and facilities are no longer needed, areas and facilities as follows:

(a) Building No. 81 (A. C. Hangar, 120', temporary) and the necessary equipment therein to provide first and second echelons of maintenance for 15 Army aircraft now programmed for assignment to this area to provide necessary continuation training for reserve aviators available in that District;

(b) 18,000 square yards of parking space located immediately in front of such hangar;

(c) Sufficient gasoline storage capacity as may be determined by the War Department, capable of segregation, now comprising part of the 300,000 gallon flotation system located immediately adjacent to the hangar.

(3) The reservation in the United States of the right, title and interest in and to any chapel buildings and their contents;

(4) The reservation in the United States of the right, title and interest in and to all personal property on the premises other than that authorized for transfer to the City of Charlotte, together with the right of removal from the premises within a reasonable period of time; and

(5) The reservation in the United States of the right, title and interest in and to all buildings not heretofore authorized for transfer by the Administrator to the City of Charlotte, together with the right of removal from the premises within a reasonable period of time.

3. In the absence of a proposal by a Government agency, or by a State or local government showing a greater need, submitted within the ten-day period provided above, the disposal agency is authorized to dispose of the airport property described hereinabove to the City of Charlotte, North Carolina, without a cash payment, in consideration of its assumption of all the obligations and its agreement to all of the reservations, restrictions and conditions set out herein.

This order shall become effective February 14, 1946.

E. B. GREGORY,
Lieutenant General, A. U. S.,
Chairman, Board of Directors,
War Assets Corporation.

FEBRUARY 14, 1946.

[F. R. Doc. 46-2613; Filed, Feb. 15, 1946;
11:26 a. m.]

TITLE 34—NAVY

Chapter I—Department of the Navy

PART 25—CONTRACT SETTLEMENT ACT

AMENDMENT OF JOINT TERMINATION REGULATION

CROSS REFERENCE: For amendments and additions to the Joint Termination Regulation issued by the Secretary of War and Secretary of the Navy and filed with the Division of the Federal Register August 21, 1945 (10 F.R. 10793), see Title 10, Chapter VIII, *supra*.

TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 4—ADJUDICATION: VETERANS' CLAIMS, CENTRAL OFFICE SECTION

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments to Part 4 are issued:

Beginning and Ending Dates of Wars (All Dates Inclusive)

CROSS REFERENCE: For World Wars I and II, see § 2.1000.

§ 4.2003 *Indian Wars*. (See also §§ 4.2009, 4.2014, and 4.2021.) All campaigns recognized by the War Department, including those cited in the act of March 4, 1917, as amended by the act of March 3, 1944, between January 1, 1817 and December 31, 1898. (58 Stat. 108)

§ 4.2006 *Public No. 2, 73d Congress*. (See also § 2.1001.)

No change in (a) to (1), inclusive.

(m) *Commissioned or enlisted members of the Women's Reserve of the Navy, Marine Corps or Coast Guard*. See § 2.1001 (q).

(n) *Paymaster clerks in the Marine Corps*. (A. D. 654.)

(o) *Commissioned officers, Public Health Service*. See § 2.1001 (e).

§ 4.2009 *Indian Wars*. (See also §§ 4.2003, 4.2014, and 4.2021.) The act of March 3, 1927, includes only officers and enlisted men employed in the military arm of the State, Territory or United States, and no class of civilian employees is included. (22 P. D. 286, 424.)

Persons Not Included

§ 4.2014 *Indian Wars*. (a) Civilian employees and others not specifically named in the act of March 3, 1927. See also §§ 4.2003, 4.2009, and 4.2021.

No change in (b).

Computation of Service

CROSS REFERENCE: For World Wars I and II, see § 2.1059.

§ 4.2018 *Public No. 141, 73d Congress, and No. 269, 74th Congress*. For service pension, service is to be computed only from the date of enlistment or the beginning of the war period, whichever is the later date. Service in the Moro Province before July 15, 1903, is pensionable, as to veterans only, whether the pensioner was on the rolls March 19, 1933, or filed claim subsequent to that date. Service is exclusive of unauthorized leaves of absence and furloughs enumerated in § 2.1059, except that leave under G. O. 130 W. D. is included as pensionable service under the Acts of May 1, 1926, and June 2, 1930. Time under arrest, in the absence of acquittal or permission to resign without trial and conviction (time for which the soldier or sailor was determined to have forfeited pay by reason of absence without leave), time spent in desertion or while undergoing sentence of court martial, should be deducted. Time in a hospital, on sick furlough or as a prisoner by the enemy is included. Records of the War or Navy Department are conclusive with respect to military or naval service

as the basis of a pension claim, unless changed by special act of Congress. Title to pension, except under the Act of June 5, 1920, is conditioned upon service during the period of any one of the wars named (Spanish-American War, Boxer Rebellion, or Philippine Insurrection), and fragmentary periods of service in two or more of these activities, which combined comprise the aggregate 70 days or 90 days, will not suffice. (However, under Public No. 594, 76th Congress, approved June 11, 1940, continuous active service entered into during the War with Spain, the Philippine Insurrection, or the China Relief Expedition shall be included although part of such continuous service extended into either the Philippine Insurrection or the China Relief Expedition.) Under section 30, Public No. 141, 73d Congress, service on a vessel after August 12, 1898, is pensionable if the veteran was subject to orders requiring his disembarkation and participation in the Philippine Insurrection and military or naval service in the Philippine Insurrection or Boxer Rebellion is computed from the date of embarkation for the Philippine Islands or China. (A. D. 299, 308, 322.)

§ 4.2021 *Indian Wars*. (See also §§ 4.2003, 4.2009, and 4.2014.) For service pension pursuant to the Act of March 3, 1927, as amended, service of 30 days or more or the duration of a campaign cited in the Act of March 4, 1917, even though such campaign was of less than thirty days duration, is required in any military organization whether such person was regularly mustered into the service of the United States or not but whose service was under the authority or by the approval of the United States or any State or Territory in any Indian war or campaign, or in connection with, or in the zone of any active Indian hostilities in any of the States or Territories of the United States from January 1, 1817, to December 31, 1898, inclusive, the determination as to what constitutes the zone of active Indian hostilities to be made by the Administrator of Veterans' Affairs. The expression "active Indian hostilities" means actual hostilities such as necessitated the employment of the military arm of the State, Territory, or the United States in their suppression, and service in a military organization against Indians, without authority or even against orders of its Government, if subsequently approved either tacitly or openly, is pensionable. Service in an organization against Indian or white outlaws, or service in the Confederate Army against Indians is not pensionable, but service against Indians rendered by other troops of any of the States that seceded from the Union is included. Where the War Department is unable to locate a record of alleged service, other evidence may be admitted to prove that the requisite service was rendered, but a purported list of members, not filed with the Adjutant General of a State until a date remote from the period of the hostilities may not be accepted as genuine and a sufficient finding that a claimant rendered the required service. (22 P. D. 286, 342, 424, 1 A.V.A. 29.) 58 Stat. 108)

Filing of Claims and Supporting Evidence Application for Pensions and Compensation

§ 4.2030 *Identification of beneficiaries under special acts.* If a beneficiary in a special act has no claim before the Veterans Administration, such beneficiary must file formal application, before pension may be awarded.

Determinations as to Basic Entitlement

§ 4.2039 *Type of discharge required* (see § 2.1064)—(a) *Special act to correct military record.* Where a special act does not grant pension directly but gives the claimant a status so that he is eligible to apply for and be allowed a pension, he is in the same position as he would have been if he had served honorably. (19 F.D. 30.) (58 Stat. 284; 38 U. S. C. 693)

§ 4.2040 *Types of discharges for service pension* (Spanish-American War, Boxer Rebellion, Philippine Insurrection, Civil War and Indian Wars). No change in (a) or (b).

(c) *Character of discharge under the Act of July 14, 1862, as amended.* A discharge from the service in which disabilities are alleged to have been incurred is essential to title under the Act of July 14, 1862, as amended, but the character of discharge is not material unless a person is discharged or dismissed by reason of the sentence of a general court martial, or is discharged on the ground that he was a conscientious objector who refused to perform military duties or refused to wear the uniform or otherwise to comply with lawful orders of competent military authorities, or as a deserter, or in the case of an officer where his resignation is accepted for the good of the service. However, in the case of any such person, if it is established to the satisfaction of the Administrator that at the time of the commission of the offense such person was insane, he shall not be precluded from benefits to which he is otherwise entitled under the laws administered by the Veterans Administration. Veterans in receipt of pension or compensation on the date of the enactment of Public No. 346, 78th Congress, pursuant to the interpretation of prior laws are not affected by the requirements of either section 300 or section 1503, Public No. 346, 78th Congress. (See § 4.2042.) (58 Stat. 284; 38 U. S. C. 693)

§ 4.2043 *No forfeiture under pension laws in force March 19, 1933.* Under the pension laws in effect March 19, 1933, including those reenacted by Public No. 141, 73d Congress, and No. 269, 74th Congress, there is no provision for a forfeiture of disability pension other than section 6 of the Act of April 26, 1898, as amended by the Act of May 11, 1908, prior to July 13, 1943. However, from July 13, 1943, see the provisions of § 2.1069 (d). (57 Stat. 554; 38 U.S.C. 728)

§ 4.2046 *Line of duty.* See § 2.1066. (a) "Line of duty" is a technical phrase which is defined in § 35.10 (h), as amended by Public No. 648, 75th Congress, approved June 16, 1938, and Pub-

lic No. 439, 78th Congress. (58 Stat. 752)

No change in (b).

Determinations of Service Connection

CROSS REFERENCE: For *Presumption of Soundness*, see §§ 2.1059 and 2.1063.

Aid and Attendance

§ 4.2085 *Section 31, Public No. 141, 73d Congress, section 12, Public No. 866, 76th Congress, and § 35.017 (d), Public No. 2, 73d Congress, as amended by Public No. 16, 78th Congress.* See §§ 2.1005, 2.1027, 2.1121, 2.1123, and 2.1124.

CROSS REFERENCE: Jurisdiction under section 31, Public No. 141, 73d Congress, section 12, Public No. 866, 76th Congress, and § 35.017 (d), Public No. 2, 73d Congress, as amended by Public No. 16, 78th Congress. See §§ 2.1005 and 4.2025 (f).

Determinations under section 31, Public No. 141, 73d Congress, section 12, Public No. 866, 76th Congress, and § 35.017 (d), Public No. 2, 73d Congress, as amended by Public No. 16, 78th Congress. See § 2.1123.

Direct service connection granted under section 31, Public No. 141, 73d Congress, section 12, Public No. 866, 76th Congress, and § 35.017 (d), Public No. 2, 73d Congress, as amended by Public No. 16, 78th Congress. See § 3.1245 (b).

Medical Examinations

§ 4.2095 *Examinations in original claims for pension or compensation.* (See also § 2.1076.) No change in (a), (b), and (c).

(d) *Examinations of employee-claimants.* Examinations of employees of the Veterans Administration shall be made in a Veterans Administration hospital or regional office elsewhere than at the place of employment except as otherwise approved by the chief, claims division.

§ 4.2114 *Peace-time service subsequent to April 20, 1898.* (a) No award of disability pension shall be effective prior to the date of the veteran's separation from service, date of the happening of the contingency upon which such pension is allowed, or the date of receipt of application therefor, whichever is the later date. (§ 35.021 (a) (1) as amended by section 17, Public No. 144, 78th Congress.) *Provided,* That no award of disability pension under Public No. 182, 77th Congress, to former personnel of the United States Coast Guard who served on or after January 28, 1915, and prior to July 2, 1930, shall be effective prior to the date of receipt on or after July 18, 1941, of an acceptable application, formal or informal, as required in disability claims generally. Notwithstanding any other provision of law, pension payable for disability shall be payable from date of discharge if claim therefor is filed within one year from discharge on or after July 13, 1943, if entitlement is otherwise established. The pension to be awarded will be in accordance with the rates provided in § 35.012, as amended, and under the applicable schedule pursuant to Public No. 2, 73d Congress.

(b) Pursuant to the provisions of Public No. 788, 74th Congress, enacted June 24, 1936, any peace-time veteran entitled to pension for service-connected disability under § 35.01, and who was on March 19, 1933, in receipt of compensation under the World War Veterans' Act,

1924, as amended, or pension under the General Law, for such service-connected disability shall be entitled to receive pension at seventy-five per centum of the compensation or pension being paid on March 19, 1933, effective July 1, 1936. Where the degree of such service-connected disability has increased or decreased since March 19, 1933, the per centum limits shall be determined on the basis of the rate of compensation or pension payable for such changed condition under the laws applied to such veteran in effect on March 19, 1933. However, in no event shall the rate of pension herein provided exceed seventy-five per centum of the rate of pension for similar disability under § 35.011. Such pension shall be subject to the provisions of § 3.1255.

No change in (c).

Amended Awards

§ 4.2141 *Fiduciary awards.* (a) The disability pension or compensation payable to a minor or a person mentally incompetent under the former pension laws, Public No. 2, 73d Congress; Public No. 78, 73d Congress; Public No. 141, 73d Congress; Public No. 269, 74th Congress, or retirement pay, may be paid to the guardian, curator or conservator, if one be appointed, or to the person otherwise legally vested with the care of the claimant or his estate, or when payments have been suspended or withheld from a guardian, to a person having actual custody of the minor or incompetent, in accordance with the provisions of section 21 of the World War Veterans' Act, 1924, as amended by Public No. 262, 74th Congress, and section 2, Public No. 144, 78th Congress, subject to §§ 3.1276, 3.1310, and 3.1315.

(b) In the case of an incompetent veteran having no guardian, payment of compensation, pension, or retirement pay may be made in the discretion of the Administrator to the wife of such veteran for the use of the veteran and his dependents. See §§ 3.1275 (a) and 20.5201 (a). (57 Stat. 554; 38 U. S. C. 44, 450)

No change in (c) or (d).

§ 4.2142 *Institutional awards.* [Canceled February 15, 1946.] See § 3.1276.

Restrictions

§ 4.2164 *Section 30, Public No. 141, 73d Congress, and § 35.01 (f).* Income itself is not a bar, but non-exemption from Federal income tax for the preceding year precludes pension through December 31, 1934.

§ 4.2170 *Concurrent with naval pension allowance.* [Canceled February 15, 1946.] See § 3.1296 (d).

CROSS REFERENCE: For *Concurrent With Military or Naval (Including Fleet Reserve) Retirement Pay*, see § 3.1300.

§ 4.2175 *Concurrent with death pension.* [Canceled February 15, 1946.] See § 3.1296.

§ 4.2176 *Where pension laws in force March 19, 1933, as reenacted are involved.* [Canceled February 15, 1946.] See § 3.1296.

§ 4.2177 *Concurrent payments.* [Canceled February 15, 1946.] See § 3.1296.

§ 4.2178 *Right of election.* Where a person has a right to benefits under two or more laws, he may elect to take under any law, regardless of whether it is the greater or lesser benefit, and even though his election results in reducing the benefits of his dependents. Any person who elects to receive monetary benefits under any law, places the right under another law in suspense and may at any time, on election, cause the suspension to be lifted by again electing monetary benefits under the other law.

§ 4.2180 *Hospital reductions.* Pension payable by apportionment to dependents is not subject to reduction because of the hospitalization of the dependents. (54 Stat. 1193-1197; 38 U.S.C. 507a)

§ 4.2181 *Reduction of pension for veterans in homes.* Reductions in service pension while a veteran is in a State Soldiers' Home, the U. S. Soldiers' Home, the U. S. Naval Home (or a Veterans' Administration hospital or home) mentioned in §§ 4.2108, 4.2110, and 4.2112, will be continued during furloughs or other temporary absences for periods of less than thirty days, unless discharged without readmission in which event the award will be adjusted, if otherwise in order, effective as of the day the veteran left the institution. The protected rate of pension specified by subparagraph (D), section 13, Public No. 144, 78th Congress, will remain in effect where a veteran is permitted to leave the U. S. Soldiers' Home or any National or State Soldiers' Home for the purpose of receiving hospital treatment in a Veterans' Administration hospital or home or other Government or State institution. The full amount of pension otherwise payable will be continued during continuance of such treatment. (See § 3.1256.) (57 Stat. 554-560; 38 U.S.C. Ch. 12, note)

§ 4.2185 *Public No. 2, 73d Congress, § 35.01 and Public No. 141, 73d Congress.* [Canceled February 15, 1946.] See § 3.1255.

§ 4.2186 *Public No. 269, 74th Congress and Public No. 541, 75th Congress.* [Canceled February 15, 1946.] See § 3.1255.

§ 4.2187 *Indian War, Civil War, and peace-time prior to April 21, 1898.* [Canceled February 15, 1946.] See § 3.1255.

§ 4.2188 *Special acts.* Pension payable under special acts is subject to reduction pursuant to § 3.1255. (57 Stat. 554-560; 38 U.S.C. Ch. 12, note)

§ 4.2189 *Reduction based upon maintenance in State homes; U. S. Soldiers' Home, Washington, D. C., and U. S. Naval Home—(a) Public No. 269, 74th Congress.* See §§ 3.1255 and 4.2181.

(b) *Indian Wars.* See § 4.2110.

(c) *Civil War.* See §§ 4.2111-4.2112.

Apportionment

§ 4.2221 *Public No. 18, 76th Congress (act of April 3, 1939) and Public No. 262, No. 34—8*

77th Congress (act of September 26, 1941). Retirement pay under these acts may not be apportioned unless the veteran is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof. (A. D. 599.) See §§ 3.1310 to 3.1317. (53 Stat. 556; 10 U.S.C. 292b)

[SEAL] OMAR N. BRADLEY,
General, U. S. Army,
Administrator of Veterans' Affairs.

FEBRUARY 15, 1946.

[F. R. Doc. 46-2583; Filed, Feb. 15, 1946; 11:34 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Ex Parte No. 72 (Sub-No. 1)]

PART 60—CLASSIFICATION OF EMPLOYEES AND SUBORDINATE OFFICIALS

STATIONMASTER AND ASSISTANT STATIONMASTERS (NASHVILLE TERMINALS)

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 4th day of February A. D. 1946.

In the matter of regulations concerning the class of employees and subordinate officials to be included within the term "employee" under the Railway Labor Act.

It appearing, that the Brotherhood of Railroad Trainmen has filed a petition herein requesting this Commission to amend or interpret its orders defining work as that of employees or subordinate officials so as to include the work of the persons described in the next succeeding paragraph hereof, and full investigation of the matters and things involved having been made, and the division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the orders heretofore issued by the Commission under authority of section 300 (5) of the Transportation Act, 1920, and section 1 (fifth) of the Railway Labor Act, defining work as that of subordinate officials, now in effect, be, and they are hereby, amended by adding the following:

§ 60.18 *Stationmaster and assistant stationmasters.* The work performed by the stationmaster and assistant stationmasters employed by the Nashville Terminals, Nashville, Tenn., is defined as that of subordinate officials. (Sec. 300, 41 Stat. 469, Sec. 1, 44 Stat. 577, 48 Stat. 1186; 45 U.S.C. 131, 151)

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 46-2607; Filed, Feb. 15, 1946; 11:57 a. m.]

[2d Rev. S. O. 450]

PART 95—CAR SERVICE

BOX CARS TO BE USED FOR GRAIN IN PACIFIC NORTHWEST

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 14th day of February A. D. 1946.

It appearing, that the President of the United States has instructed various Government agencies to put into effect a number of emergency measures designed to help meet critically urgent needs for foodstuffs in various foreign countries, and that the President has directed that "specific preference will be given to the rail movement of wheat, * * *, and other essential foods in order promptly to export maximum quantities to the destinations where most needed"; that upon representations from the Office of Defense Transportation, and due to the fact that there exists a shortage of box cars for the movement of this traffic, the Commission is of opinion that an emergency exists in the States of Oregon, Washington, Idaho, and Western Montana: It is ordered, that:

(a) *Box Cars to be Used for Loading Grain, Etc.* No common carrier by railroad subject to the Interstate Commerce Act, at any point in the States of Oregon, Washington, or Idaho, (except all points on the Union Pacific Railroad Company east of Huntington, Oregon, and except all points on the Utah Idaho Central Railroad Corporation in Idaho), or at Paradise or Troy, Montana, or west thereof, shall supply or place a box car:

(1) For loading grain, grain products or grain by-products unless or until the shipper or consignor thereof certifies in writing to the carrier on the car order that such box car is to be shipped to a point within the switching districts (but not to flour or feed mills located at a point within the switching districts) of the ports of Astoria, Lacoda, Linnton, Portland, or Prescott, Oregon; or Aberdeen, Anacortes, Bellingham, Everett, Kalama, Longview, Mukilteo, Olympia, Seattle, Tacoma, Tulalip, or Vancouver, Washington; or to the following official inspection points, Attalia, Auburn, Black River, Cheney, Pasco, Spokane, Wallula, Walla Walla, and Wenatchee, Washington; Lewiston, Idaho; Pendleton, Umatilla and Rieth, Oregon, for inspection and diversion to the ports named.

(b) *Diversions or reconsignments prohibited.* Except as provided in this order, no common carrier by railroad subject to the Interstate Commerce Act shall execute, or allow or permit to be executed, any order of reconsignment or diversion or permit rebilling or reshipping of grain, grain products or grain by-products shipped pursuant to this order.

(c) *Application.* (1) The provisions of this order shall apply to intrastate and foreign commerce as well as interstate commerce.

(2) The provisions of this order shall not be construed to authorize a common carrier by railroad subject to the Interstate Commerce Act to supply or place a box car for loading grain, grain prod-

ucts or grain by-products to flour or feed mills at a point within the switching districts of the ports named in paragraph (a) (1) above without first obtaining a permit as provided in paragraph (d) hereof.

(d) *Special and general permits.* The provisions of this order shall be subject to any special or general permits issued by the permit agent named in paragraph (e) hereof.

(e) *Permit agent; appointment and duties.*—(1) *Appointment.* F. H. Hocken, District Rail Director, Office of Defense Transportation, 1305 American Bank Building, Portland, Oregon, Phone: Broadway 8471 (461), is hereby designated and appointed as agent of the Interstate Commerce Commission to issue permits under this order.

(2) *Outline of duty.* As agent he shall issue permits under the direction and supervision of the Director, Bureau of Service, in such a manner as to insure sufficient box cars for the loading and movement of grain, grain products or grain by-products in accordance with paragraph (a) (1) hereof.

(f) *Effective date.* This order shall become effective at 12:01 a. m., February 17, 1946.

(g) *Expiration date.* This order shall expire at 11:59 p. m., March 10, 1946, unless otherwise modified, changed, suspended or annulled by order of this Commission. (40 Stat. 101, sec. 402, 418, 41 Stat. 476, 485, secs. 4, 10, 54 Stat. 901, 912; 49 U.S.C. 1 (10)-(17), 15 (4))

It is further ordered, that this order shall vacate and supersede Revised Service Order No. 450 and that a copy of this order and direction shall be served upon the State railroad regulatory bodies of the States of Oregon, Washington, Idaho, and Montana, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 46-2608; Filed, Feb. 15, 1946;
11:57 a. m.]

[S. O. 454]

PART 95—CAR SERVICE

PREFERENCE FOR EXPORT WHEAT, CORN, MEAT AND OTHER ESSENTIAL FOODS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 14th day of February, A. D., 1946.

It appearing, that the President of the United States has instructed the appropriate agencies of the Government to put into effect a number of emergency measures designed to help meet critically urgent needs for food in foreign countries to the greatest possible extent in the

shortest possible time and has directed that "specific preference will be given to the rail movement of wheat, corn, meat and other essential foods in order promptly to export maximum quantities to the destinations where most needed", the Secretary of the Department of Agriculture has made representations regarding the program of the President to the Office of Defense Transportation and the latter has likewise made representations to this Commission regarding the need for preference in rail movements of this particular traffic; the Commission is of opinion that an emergency which requires immediate action exists in all sections of the country, it is ordered, that:

(a) *Definition.* The term "common carrier" as used herein means a common carrier by railroad subject to the Interstate Commerce Act.

(b) *Transportation preference to be given certain traffic.* (1) Each common carrier shall give preference over all other orders to filling orders for empty cars to the extent of the daily loading ability of the shipper or consignor providing the United States Department of Agriculture or its agent shall certify in writing on the car order that the car or cars ordered are to be loaded with wheat, corn, meat, or other essential foodstuffs including seeds, for relief program destined to a United States port on the Atlantic, Pacific or Gulf coast for export.

(2) Each common carrier shall give preference over all other orders to delivery of loaded cars at ports when ordered for unloading provided the waybill carries a notation that the consignor or shipper has certified on the bill of lading that the car has been loaded in accordance with Interstate Commerce Commission Service Order No. 454.

(c) *Application.* (1) The provisions of this order shall apply to intrastate and foreign traffic as well as interstate traffic.

(2) This order shall not apply on a shipment destined to a point intermediate to the port of export for storage in transit.

(d) *Rules, regulations and practices suspended.* The operation of all rules, regulations and practices insofar as they conflict with the provisions of this order, is hereby suspended.

(e) *Effective date.* This order shall become effective at 12:01 a. m., February 21st, 1946.

(f) *Expiration date.* This order shall expire at 11:59 p. m., June 30, 1946, unless otherwise modified, changed, suspended or annulled by order of this Commission. (40 Stat. 101, sec. 402, 418; 41 Stat. 476, 485, secs. 4, 10; 54 Stat. 901; 49 U.S.C. 1, (10)-(17), 15 (4))

It is further ordered, that a copy of this order and direction shall be served upon each state railroad regulatory body, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it

with the Director, Division of the Federal Register.

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 46-2609; Filed, Feb. 15, 1946;
11:57 a. m.]

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

FORM PRESCRIBED FOR LARGE AND MEDIUM STEAM RAILWAYS

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 7th day of February, A. D. 1946.

The matter of annual reports from steam railway companies and switching and terminal companies of Class I and Class II being under consideration:

It is ordered, That the order dated February 2, 1945, In the Matter of Annual Reports from Steam Railway Companies and Switching and Terminal Companies of Class I and Class II (Sec. 120.11, Title 49, Code of Federal Regulations) be and it is hereby vacated and set aside, effective January 1, 1946, and the following order shall become effective:

§ 120.11 *Form prescribed for large and medium steam railways.* All steam railway companies and switching and terminal companies of Class I and Class II subject to the provisions of Section 20, Part I, of the Interstate Commerce Act, are hereby required to file annual reports for the year ended December 31, 1945, and for each succeeding year until further order in accordance with Annual Report Form A (Large and Medium Steam Roads and Switching and Terminal Companies), which is hereby approved and made a part of this order. The annual report shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D. C., on or before March 31, of the year following the one to which it relates. (24 Stat. 386, 34 Stat. 593, 35 Stat. 649, 36 Stat. 556, 41 Stat. 493, 54 Stat. 916; 49 U.S.C. 20 (1)-(8))

By the Commission, Division 1.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 46-2610; Filed, Feb. 15, 1946;
11:56 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Office of the Secretary.

MEAT AND MEAT PRODUCTS AND BY- PRODUCTS

ORDER TERMINATING POSSESSION

By virtue of the authority vested in me by the President of the United States under Executive Order No. 9685 (11 F.R. 989), dated January 24, 1946, I hereby find from the information available to me that there is no present interruption of production, as a result of existing

or threatened strikes or other labor disturbances, at the plants and facilities specified in the list attached hereto as Appendix A, possession of which was taken by the Secretary of Agriculture, under orders dated January 25, 1946 (11 F.R. 1002), and January 26, 1946 (11 F.R. 1053), issued under said Executive Order. I, therefore, terminate possession by the Government of all such plants, facilities, and properties effective as of 12:01 a. m., February 15, 1946.

Dated: February 14, 1946.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

APPENDIX A—LIST OF PLANTS AND FACILITIES
GOVERNMENT POSSESSION OF WHICH IS TERMINATED

ARMOUR AND COMPANY

City, Address, and Name

Atlanta, Ga.: (Branch house).
Brockton, Mass.: (Branch house).
Chicago, Ill.: Englewood branch.
Chicago, Ill.: South Chicago branch.
Chicago, Ill.: West Lake Street branch.
Chicago, Ill.: West Madison Street branch.
Detroit, Mich.: Detroit Hotel Supply Division.
Fargo, N. D.: (Branch house).
Grand Forks, N. D.: (Branch house).
Green Bay, Wis.: (Branch house).
Lexington, Ky.: (Branch house).
Los Angeles, Calif.: Allen Hotel Supply Co.
Lowell, Mass.: (Branch house).
Lynn, Mass.: (Branch house).
Mt. Vernon, N. Y.: (Branch house).
New Bedford, Mass.: (Branch house).
Salem, Mass.: (Branch house).

SWIFT & CO.

Flushing, N. Y., 44 Lawrence St.—(Branch house).
New Rochelle, N. Y., 88 Harrison St.—(Branch house).
San Antonio, Tex., San Marco and Pendleton Ave.—San Antonio Packing House Market.
Dallas, Tex., 2300 South Lamar St.—(Branch house).
Yonkers, N. Y., 89 Woodworth Ave.—(Branch house).
Lake Charles, La., Division and Front Sts.—(Branch house).
Springfield, Mass., 130 Lyman Street—(Branch house).
Fort Worth, Tex.: Packing House Market.
Chicago, Ill.: Arnold Bros.
Chicago, Ill.: Derby Foods, Inc.
Forest Park, Ill.: 7411 Franklin St.—(Branch house).
Chicago, Ill.: 9139 Baltimore Ave.—(Branch house).
Chicago, Ill.: 1254 George St.—Lincoln Avenue Market.
Chicago, Ill.: 5120 Milwaukee Ave.—Jefferson Park Market.
Chicago, Ill.: 250 West 114th St.—Roseland Market.
Chicago, Ill.: 855 Fulton St.—Fulton Market.

WILSON & CO.

Chicago, Ill.: 9229 Baltimore Ave.—South Chicago Branch.
Chicago, Ill.: 1257 Oakdale Ave.—Oakdale Market.
Chicago, Ill.: 112 West 115th St.—Kensington Branch.
Forest Park, Ill.: 7431 Franklin St. (P. O. 92)—Forest Park Branch.
Los Angeles, Calif.: 1831 E. Olympic Boulevard—Davidson Meat Co.
Kansas City, Kans.: 20 Kansas Ave. (P. O. 53)—Williams Meat Co.
Chicago, Ill.: 4221 So. Western Ave.—Wilson Laboratories.

[F. R. Doc. 46-2557; Filed, Feb. 15, 1946; 11:09 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 6346]

JAMES A. NOE (WNOE)

NOTICE OF HEARING

In re application of James A. Noe (WNOE); date filed January 23, 1942; for Construction Permit to ch. freq. incr. power, install new trans. & D. A. for day and night use, and move trans.; class of service, Broadcast; class of station, Broadcast; location, New Orleans, Louisiana; operating assignment specified: frequency, 1060 kc.; power, 50 kw.; hours of operation, unlimited; File No. B3-P-3446.

You are hereby notified that the Commission has examined the application in the above-entitled case and has designated the matter for hearing in consolidation with the application of Deep South Broadcasting Corporation (File No. B3-P-3687; Docket No. 7117) on the following issues:

1. To determine the legal, technical, financial and other qualifications of applicant to construct and operate the station as proposed.

2. To determine the areas and populations which may be expected to gain primary service from the proposed operation of the station and the character of other broadcast services available to those areas and populations.

3. To determine the type and character of program service proposed to be furnished.

4. To determine whether operation of the station as proposed would involve objectionable interference with Station KYW, Philadelphia, XEDP, Mexico, D. F., CJOC, Lethbridge, Alta, CMCN, Havana Cuba; CMJA, Camaguey, Cuba; the nature and extent of any such interference and any areas and populations in the United States affected thereby and the availability of other broadcast services to such areas.

5. To determine whether installation and operation of the proposed antenna system would be in compliance with the Commission's Rules and Standards of Good Engineering Practice concerning standard broadcast stations.

6. To determine whether operation of the station proposed would furnish the minimum signal strength over the entire metropolitan district of New Orleans specified in the Standards of Good Engineering Practice.

7. To determine whether in view of the facts adduced under the above issues either of these conflicting applications should be granted and if so, which one.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's rules of practice and procedure. Persons other than the applicant herein and the applicants already made a party by consolidation, who desire to be heard must file a petition to intervene in accordance with the provisions of §§ 1.102, 1.141 and

¹ DA-night and day.

1.142 of the Commission's rules of practice and procedure.

The applicant's address is as follows: James A. Noe, Radio Station WNOE, St. Charles Hotel, 211 St. Charles Street, New Orleans, La.

Dated at Washington, D. C., February 6, 1946.

By the Commission.

T. J. SLOWIE,
Secretary.

[F. R. Doc. 46-2573; Filed, Feb. 15, 1946; 11:21 a. m.]

[Docket No. 6983]

WCLS, Inc. (WJOL)

NOTICE OF HEARING

In re application of WCLS, Incorporated (WJOL); Date filed, April 27, 1945; For, Renewal of License; Class of service, Broadcast; Class of station, Broadcast; Location, Joliet, Illinois; Operating assignment specified: Frequency, 1340 kc.; Power, 250 w.; Hours of operation, Unlimited; File No. B4-R-591.

You are hereby notified that the Commission has examined the application in the above entitled case and has designated the matter for hearing for the following reasons:

1. To obtain full information relative to the contract of August 9, 1937, between the applicant and A. J. Felman with reference to any right which the said Felman reserves or attempts to reserve to himself in the license of Station WJOL or in the use and operation thereof.

2. To determine whether the contract of August 9, 1937 contravenes sections 301 and 309 (b) (1) of the Communications Act of 1934.

3. To determine whether the rights granted to WCLS, Inc., as licensee of Station WJOL have, without the consent of the Commission, been transferred, assigned or otherwise disposed of.

4. To determine the nature and extent of the supervision exercised by the licensee over the programs broadcast from station WJOL.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's rules of practice and procedure. Persons other than the applicant herein who desire to be heard must file a petition to intervene in accordance with the provisions of §§ 1.102, 1.141, and 1.142 of the Commission's rules of practice and procedure.

The applicant's address is as follows: WCLS, Incorporated, 601 Walnut Street, Joliet, Illinois.

Dated at Washington, D. C., January 18, 1946.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 46-2571; Filed, Feb. 15, 1946; 11:21 a. m.]

[Docket No. 7117]

DEEP SOUTH BROADCASTING CORP.

NOTICE OF HEARING

In re application of Deep South Broadcasting Corporation (new); date filed, August 23, 1944; for construction permit; class of service, broadcast; class of station, broadcast; location, New Orleans, Louisiana; operating assignment specified: Frequency, 1060 kc.; power, 10 kw¹ N, 50 kw¹ day; unlimited. File No. B3-P-3687.

You are hereby notified that the Commission has examined the application in the above-entitled case and has designated the matter for hearing in consolidation with the application of James A. Noe (File No. B3-P-3446; Docket No. 6346) on the following issues:

1. To determine the legal, technical, financial, and other qualifications of applicant, its officers, directors, and stockholders, to construct and operate the proposed station.
2. To determine the areas and populations which may be expected to gain primary service from operation of proposed station and the character of other broadcast services available to those areas.
3. To determine the type and character of program service proposed to be furnished.
4. To determine whether operation of the proposed station would involve objectionable interference with Station KYW, Philadelphia, XEDP, Mexico, D. F., CJOC, Lethbridge, Alta, CMCM, Havana, Cuba, CMJA, Camaguey, Cuba; the nature and extent of any such interference and any areas and populations in the United States affected thereby, and the availability of other broadcast services to such areas.
5. To determine whether installation and operation of the proposed antenna system would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.
6. To determine whether operation of the station proposed would furnish the minimum signal strength over the entire metropolitan district of New Orleans specified in the Standards of Good Engineering Practice.
7. To determine whether in view of the facts adduced under the above issues either of these conflicting applications should be granted and if so, which one.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's rules of practice and procedure. Persons other than the applicant herein and the applicants already made a party by consolidation, who desire to be heard must file a petition to intervene in accordance with the provisions of §§ 1.102, 1.141 and 1.142 of the Commission's rules of practice and procedure.

The applicant's address is as follows: Deep South Broadcasting Corporation, % John D. Ewing, P. O. Box 1387, Shreveport 92, Louisiana.

¹ DA—night and day.

Dated at Washington, D. C., February 6, 1946.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 46-2572; Filed, Feb. 15, 1946; 11:21 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-699]

MID-CONTINENT GAS TRANSMISSION Co.

NOTICE OF APPLICATION

FEBRUARY 13, 1946.

Notice is hereby given that on January 31, 1946, an application was filed with the Federal Power Commission by Mid-Continent Gas Transmission Company, a Delaware corporation having its principal place of business at 900 Market Street, Wilmington, Delaware, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, to authorize the construction and operation of certain facilities hereinafter described:

The proposed project will consist of a 26-inch main gas transmission line approximately 400 miles in length extending from the initial main line compressor station to be located near Liberal, Stevens County, Kansas, to Wichita, Kansas, and thence to a point near Kansas City, Missouri.

The project also includes two 26-inch main gas lines located in the gas field, each of which will be connected to the above-mentioned initial main line compressor station and about 50 miles in length. One such line to extend in a southwesterly direction into Texas County, Oklahoma, and the other in a northwesterly direction into either Grant and Haskell or Grant and Stanton Counties, Kansas.

As part of the project, two main line compressor stations are to be installed. One compressor station is to be installed near Liberal, Stevens County, Kansas, having initially 11,000 horsepower to be increased to 19,000 horsepower by the fifth year and the other to be installed near Wichita, Kansas, having initially 7,000 horsepower to be increased to 12,000 horsepower by the fifth year. It is estimated that the initial capacity of these stations will be 190,000 Mcf at Liberal and 156,000 Mcf per day at Wichita, increasing to 255,000 Mcf and 210,000 Mcf per day, respectively. Compressor units to be located in the gas field having 6,000 horsepower initially increasing to 10,000 horsepower in the fifth year are also proposed.

The application states that Peerless Oil and Gas Company is prepared to dedicate in excess of 114,000 acres of gas reserves, located in Stevens and Seward Counties, Kansas, and Texas County, Oklahoma, estimated at not less than one trillion cubic feet and an expected life of 40 years, for supplying the requirements of Kansas City Gas Company, one of the Applicant's proposed markets. Negotiations are being carried on for additional gas purchase contracts with holders of gas acreage, which are esti-

mated to have sufficient reserves to supply the present and future demands of other proposed markets of Applicant for a minimum of forty years.

The total over-all capital cost of the proposed project is estimated by the Applicant to be \$25,620,000 for initial construction. Construction of additional facilities during the first five years of operation will require an additional expenditure of \$3,340,000. No firm commitment as to financing has been made. However, Applicant has been advised by Otis & Company, Cleveland, Ohio, that such company is willing to undertake the proposed financing contingent upon execution of satisfactory contracts for purchase and sale of gas and a satisfactory engineer's report.

The Applicant proposes to render service to natural-gas distributing companies and industrial customers doing business within the limits and environs of Kansas City, Missouri; Kansas City, Kansas; Wichita, Kansas, and suburbs of such cities; and such other customers as may properly be served. The three distributing companies now serving these cities acquire virtually all of their natural-gas requirements from the Cities Service Gas Company, with which they are affiliated.

Proposed rates per Mcf of gas delivered from the line between the initial compressor station and the Wichita compressor station are 13.5¢ for the base load, 21.5¢ for the excess load, and 10.0¢ for industrial gas. Rates for gas delivered from the line between the Wichita station and Kansas City, Kansas, are 15.5¢ for the base load, 23.5¢ for the excess load, and 12.0¢ for industrial. Such rates are for gas containing 1,000 Btu's per cubic foot and are to be automatically adjusted according to the actual heating value of the gas delivered.

The application recites that the proposed project will be in the public interest in that Applicant will be able to transport gas at the economic minimum of cost; and trade and business interests will benefit from the higher than current average price which Applicant proposes to pay for gas purchased from producers. It is also said that proposed rates will permit distributing companies to develop sales of gas for space-heating purposes in the greater Kansas City area to an extent to which it has not been developed.

Applicant also submits that the interest of the public will best be served if its application is approved; and if a certificate of public convenience and necessity is denied the Cities Service Gas Company for the construction of additional facilities to provide additional quantities of natural gas to consumers in the Kansas City area (Docket No. G-649).¹

¹ On July 4, 1945, Cities Service Gas Company filed application for a certificate of public convenience and necessity for the construction of approximately 32 miles of loop line between Welda, Anderson County, Kansas, and Ottawa, Franklin County, Kansas, and the relocation of certain compressor units; both for the purpose of enabling the company to meet increased peak requirements in the Kansas City, Topeka, St. Joseph, and Sedalia areas. On July 24, 1945, in view of representations of urgent emergency advanced by the Cities Service Gas Company,

Any interested State commission is requested to notify the Federal Power Commission whether it considers the application one which should be considered under the cooperative provisions of Part 67 of the Provisional Rules of Practice and Regulations under the Natural Gas Act, and if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with the reasons for such request.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 28th day of February, 1946, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's provisional rules of practice and regulations under the Natural Gas Act.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 46-2554; Filed, Feb. 15, 1946;
10:04 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 5383]

LAKELAND HIGHLANDS CANNING CO., INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th of February A. D. 1946.

In the matter of Carroll E. Lindsey, as President, and Gordon T. Rou, as Secretary and Treasurer of Lakeland Highlands Canning Company, Inc., and Lakeland Highlands Canning Company, Inc., a corporation.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That John P. Bramhall, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 25, 1946, at ten o'clock in the forenoon of that day (Eastern Standard Time), in Room 1, Federal Building, Tampa, Florida.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the facts; conclusions of fact; conclusions of law; and recommendation for appropriate action by the Commission.

the Commission authorized the construction of such facilities, but at the risk of the company and without prejudice to final action of the Commission. Hearing on such application was concluded on August 24, 1945. The matter is now awaiting decision by the Commission.

By the Commission.

[SEAL] A. N. ROSS,
Acting Secretary.
[F. R. Doc. 46-2556; Filed, Feb. 15, 1946;
10:57 a. m.]

INTERSTATE COMMERCE COMMISSION.

[S. O. 422, Special Permit 7]

ICING OF FREIGHT CARS AT MADISON, WIS.

Pursuant to the authority vested in me by paragraph (c) of the first ordering paragraph of Service Order No. 422 (11 F.R. 250), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 422 insofar as it applies to Milwaukee-70307, 502732, 200573, 505173, 502790 and 502962 loaded with ice at Madison, Wisconsin.

This special permit shall expire at 11:59 p. m., February 20, 1946.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 13th day of February, 1946.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 46-2611; Filed, Feb. 15, 1946;
11:57 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[ISO 142, Order 28]

C. D. WOOD ELECTRIC CO. INC.

ADJUSTMENT OF MAXIMUM PRICES

Order No. 28 Under Supplementary Order 142. Adjustment provisions for sales of industrial machinery and equipment. C. D. Wood Electric Company, Inc. Docket Nos. 6083-136.21-610 and 6083-82.10a-11.

Mine index No.	Mine name	Type of operation	Maximum prices by size group numbers for all methods of transportation (except truck or wagon) and for all uses								Maximum prices by size group numbers for delivery by truck or wagon						
			1, 2	3, 4, 5	6	7, 8	9	10	12	1, 2	3	4	5	6	7, 8		
8	Costanzo	Deep	378	358	353	318	338		338	433	408	408	408	368	333		
14	Hiehman	do	338	318	318	278	313		318	393	378	378	378	323	293		
19	Richland	do	378	358	353	318	338		338	433	408	408	408	368	333		
29	Rivercoal	Strip								393	378	378	378	323	298		
158	A & M	Deep								428	428	378	378	378	328		

(2) The maximum prices established herein are f. o. b. the mine or preparation plant for truck or wagon shipments, f. o. b. the rail or river shipping point for rail or river shipments, and f. o. b. the rail shipping point for railroad fuel for all uses.

For reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to Supplementary Order 142, It is ordered:

(a) After December 3, 1945, the maximum prices for sales by resellers of the electric wiring devices manufactured by C. D. Wood Electric Company, Inc., New York, New York, shall be determined as follows: The reseller may increase the maximum net prices he had in effect to a purchaser of the same class, just prior to the issuance of this order, by the amount, in percent, by which his net invoiced cost has been increased by reason of Order L-716 under Revised Maximum Price Regulation 136, issued to C. D. Wood Electric Company, Inc.

(b) C. D. Wood Electric Company, Inc., shall notify each person who buys any of these items for resale of the percentage amounts by which this order permits the reseller to increase his maximum prices. A copy of each such notice shall be filed with the Machinery Branch, Office of Price Administration, Washington 25, D. C.

(c) All requests not granted herein are denied.

(d) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, JR.,
Acting Administrator.

[F. R. Doc. 46-2535; Filed, Feb. 14, 1946;
11:43 a. m.]

[MPR 120, Order 1592]
BITUMINOUS COAL

ORDER CONSOLIDATING ADJUSTMENTS FOR INDIVIDUAL MINES IN DISTRICT 6

For reasons set forth in an opinion issued simultaneously herewith and in accordance with § 1340.207 (a) of Maximum Price Regulation No. 120; It is ordered:

(1) The following maximum prices in cents per net ton are established by size group for all methods of shipment of bituminous coal from the mines indicated by index numbers and names, all of which are in District No. 6:

(3) The descriptions of size group numbers used in paragraph (1) above are the same as those referred to in § 1340.217, Appendix F of Maximum Price Regulation No. 120.

(4) Where no maximum price appears in this order for a certain size or

method of shipment of coal, the maximum price provided for District No. 6 shall apply.

(5) Orders Nos. 274, 873 and 942 under Maximum Price Regulation No. 120 are hereby revoked.

(6) This order may be revoked or amended by the Price Administrator at any time.

(7) Except as is specifically provided in this order, the provisions of Maximum Price Regulation No. 120 governing the sale of bituminous coal shall remain in effect.

(8) The applicant shall include a statement on all invoices in connection with the sales of coals priced under this order that the price charged includes and adjustment granted by Order No. 1592 under Maximum Price Regulation No. 120 of the Office of Price Administration.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2523; Filed, Feb. 14, 1946;
11:42 a. m.]

[MPR 120, Order 1593]

BITUMINOUS COAL

ORDER CONSOLIDATING ADJUSTMENTS FOR INDIVIDUAL MINES IN DISTRICT 11

For reasons set forth in an opinion issued simultaneously herewith and in accordance with § 1340.207 (a) of Maximum Price Regulation No. 120; *It is ordered:*

(1) The following maximum prices in cents per net ton are established by size for all methods of shipment of bituminous coal from the mines indicated by index numbers and names, all of which are in District No. 11:

Mine index No.	Mine name	Type of shipment for which these prices apply	Maximum prices by size group number f. o. b. the rail river shipping point for all rail or river shipment or f. o. b. mine for delivery entirely by truck																Railroad locomotive fuel, mine run
			1, 2, 3	4, 5, 6, 8	7	9-12, incl.	17-22, incl.	13, 14	23, 24	25, 27	30, 31	15	25	28, 29	32	16	33	34	
70	Peabody #48	Rail	313	288	263	268	283	263	288	278	283	193	228	213	218	163	203	243	
107	Pandora	do	410	360	268	330		225											240
107	do	Truck	460	410	308	350		255											
115	Ditney Hill	Rail	268	253	223	248		188				143				123			
117	Julian	do			263														263
478	Raccoon	Truck	413	353	318	288		258				183				153			

(2) The maximum prices established herein are f. o. b. the mine or preparation plant for truck or wagon shippers, f. o. b. the rail or river shipping point for rail or river shipments, and f. o. b. the rail shipping point for railroad fuel for all uses.

(3) The descriptions of size group numbers used in paragraph (1) above are the same as those referred to in § 1340.222, Appendix K of Maximum Price Regulation No. 120.

(4) Where no maximum price appears in this order for a certain size or method of shipment of coal, the maximum price provided in the schedule of maximum prices for District No. 11 shall apply.

(5) Order Nos. L-175 and L-556, under Maximum Price Regulation No. 120 are hereby revoked.

(6) This order may be revoked or amended at any time.

(7) Except as is specially provided in this order, the provisions of Maximum Price Regulation No. 120 governing the sale of bituminous coal shall remain in effect.

(8) The applicant shall include a statement on all invoices in connection with the sales of coals priced under this order that the price charged includes an adjustment granted by Order No. 1593 under Maximum Price Regulation No. 120 of the Office of Price Administration.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2524; Filed, Feb. 14, 1946;
11:43 a. m.]

[MPR 260, Order 2084]

BERRIMAN BROS., INC.

AUTHORIZATION OF MAXIMUM PRICES

For the reasons set forth in an opinion accompanying this order, and pursuant to § 1358.102 (b) of Maximum Price Regulation No. 260; *It is ordered, That:*

(a) Berriman Bros., Inc., 402 S. 32 St., Tampa 1, Fla. (hereinafter called "manufacturer") and wholesalers and retailers may sell, offer to sell or deliver and any person may buy, offer to buy or receive each brand and size or frontmark, and packing of the following domestic cigars at the appropriate maximum list price and maximum retail price set forth below:

Brand	Size or frontmark	Packing	Maximum list price	Maximum retail price
Berriman Bros.	Comet	50	Per M \$56	Cents 7
	1881 Triangle	50	123	16

(b) The manufacturer and wholesalers shall grant, with respect to their sales of each brand and size or frontmark of domestic cigars for which maximum prices are established by this order, the discounts they customarily granted in March 1942 on their sales of domestic cigars of the same price class to purchasers of the same class, unless a change therein results in a lower price. Packing differentials charged by the manufacturer or a wholesaler in March 1942 on sales of domestic cigars of the same price class to purchasers of the same class may be charged on corresponding

sales of each brand and size or frontmark of cigars priced by this order, but shall not be increased. Packing differentials allowed by the manufacturer or a wholesaler in March 1942 on sales of domestic cigars of the same price class to purchasers of the same class shall be allowed on corresponding sales of each brand and size or frontmark of cigars priced by this order and shall not be reduced. If a brand and size or frontmark of domestic cigars for which maximum prices are established by this order is of a price class not sold by the manufacturer or the particular wholesaler in March 1942, he shall, with respect to his sales thereof, grant the discounts and may charge and shall allow the packing differentials customarily granted, charged or allowed (as the case may be) in March 1942 by his most closely competitive seller of the same class on sales of domestic cigars of the same March 1942 price class to purchasers of the same class.

(c) On or before the first delivery to any purchaser of each brand and size or frontmark of domestic cigars for which maximum prices are established by this order, the manufacturer and every other seller (except a retailer) shall notify the purchaser of the maximum list price and the maximum retail price established by this order for such brand and size or frontmark of domestic cigars. The notice shall conform to and be given in the manner prescribed by § 1358.113 of Maximum Price Regulation No. 260.

(d) Unless the context otherwise requires, appropriate provisions of Maximum Price Regulation No. 260, shall apply to sales for which maximum prices are established by this order.

(e) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2525; Filed, Feb. 14, 1946;
11:41 a. m.]

[MPR 580, Amdt. 1 to Order 29]

CATALINA KNITTING MILLS

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, Amendment 1 to Order 29. Establishing ceiling prices at retail for certain articles. Docket No. 6063-580-13-499.

For the reasons set forth in an opinion issued simultaneously herewith, paragraph (a) to Order No. 29 is amended by adding the following:

SWIM SUITS

Style No.	Size	Manufacturer's selling price	Retail ceiling price
		Per doz.	Each
41450	34	\$96	\$14
41476	34	96	14

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2528; Filed, Feb. 14, 1946;
11:44 a. m.]

[MPR 580, Amdt. 2 to Order 57]

VASSAR CO.

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, Amendment 2 to Order 57. Establishing ceiling prices at retail for certain articles. Docket No. 6063-580-13-518.

For the reasons set forth in the opinion issued simultaneously herewith, Order No. 57 under Section 13 of Maximum Price Regulation 580 issued to Vassar Company, 2545 Diversey Avenue, Chicago, Illinois, is amended in the following respects:

1. Paragraph (a) is amended to establish the following retail ceiling prices for the articles listed and described below:

Article	Brand name	Lot No.	Manu- fac- turer's selling price	Ceiling price at retail
Women's underwear.	Vassarettes.	53	\$10.00	\$1.25
Men's underwear.	Vassar.	11	4.25	.55
		30	6.50	.80
		31	10.00	1.25
		97	19.50	2.45
		217	34.50	4.35
		705	13.50	1.70
		915	17.50	2.20
		1007	45.00	5.70
		1011	25.00	3.15

2. Paragraph (d) is amended by adding the words "and thereafter any subsequent amendments" after the words "the seller shall send the purchaser a copy of this order."

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2529; Filed, Feb. 14, 1946;
11:44 a. m.]

[MPR 580, Amdt. 2 to Order 202]

AUGUSTA KNITTING CORP.

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, amendment 2 to Order 202. Establishing ceiling prices at retail for certain articles. Docket No. 6063-580-13-544.

For the reasons set forth in the opinion issued simultaneously herewith, Order No. 202 under Section 13 of Maximum Price Regulation 580 issued to Augusta Knitting Corporation, 180 Madison Avenue, New York, New York, is amended in the following respects:

1. Paragraph (a) is amended to read as follows:

MEN'S UNDERWEAR

Brand name	Designa- tion	Manu- fac- turer's selling price	Retail ceiling price
Jones Quality Health Underwear.....	8 AU 8 SU 4 AU 4 SU 3 AU 3 SU 6 AU 6 SU	\$14.26 18.34 20.50 24.50 21.16 25.22 30.50 34.50	\$1.80 2.30 2.60 3.10 2.65 3.20 3.85 4.40
Haps No. 1.....	Sizes 34-46 48-50 52-54 56-58	9.00 10.75 13.75 16.75	1.15 1.35 1.75 2.10
Haps No. 2.....	34-46 48-50 52-54 56-58	13.50 16.00 19.00 22.00	1.70 2.00 2.40 2.80

2. Paragraph (e) is amended by adding the words "and thereafter any subsequent amendments" after the words "the seller shall send the purchaser a copy of this order."

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2530; Filed, Feb. 14, 1946;
11:45 a. m.]

[MPR 580, Amdt. 4 to Order 208]

CLIMATIC RAINWEAR CO., INC.

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, Amendment 4 to Order 208. Establishing ceiling prices at retail for certain articles. Docket No. 6063-580-13-521.

For the reasons set forth in the opinion issued simultaneously herewith, paragraph (a) of Order No. 208 is amended by adding the following:

MEN'S RAINWEAR

Style No.	Article	Manu- fac- turer's selling price	Retail ceiling price
U716	Pommel saddle coat...	\$11	\$16

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2531; Filed, Feb. 14, 1946;
11:44 a. m.]

[MPR 580, Amdt. 1 to Order 214]

MOHAWK CARPET MILLS, INC.

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, Amendment 1 to Order 214. Establishing ceiling prices at retail for certain articles. Docket No. 6063-580-13-228.

For the reasons set forth in the opinion issued simultaneously herewith, Order No. 214 is amended in the following respects:

1. Paragraph (b) is amended by adding the words "prior to any adjustment of selling price since the date of this order" after the words "having the same selling price to the retailer."

2. Paragraph (e) is amended to read as follows:

On or before the first delivery to any purchaser for resale of each article listed in paragraph (a) or defined in paragraph (b), the seller shall send the purchaser a copy of this order, and all amendments thereto.

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2532; Filed, Feb. 14, 1946;
11:45 a. m.]

[MPR 580, Amdt. 1 to Order 276]

ORR FELT AND BLANKET CO.

ESTABLISHMENT OF MAXIMUM PRICES

Maximum Price Regulation No. 580, Amendment 1 to Order 276. Establishing ceiling prices at retail for certain articles. Docket No. 6963-580-13-500.

For the reasons set forth in the opinion issued simultaneously herewith, Order No. 276 is amended as follows:

1. Paragraph (a) is amended by adding the following:

BLANKETS

Brand name	Size	Manu- fac- turer's selling price	Retail ceiling price
Orrlaskan.....	72 x 90....	\$9.00	\$15.95

2. Paragraph (e) is amended by removing the period at the end of the paragraph and adding thereon the words "and any amendment issued thereunder."

This amendment shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2533; Filed, Feb. 14, 1946;
11:45 a. m.]

[MPR 591, Order 310]

BORG-WARNER CORP.

AUTHORIZATION OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to section 9 of Maximum Price Regulation No. 591; It is ordered:

(a) The maximum net prices, f. o. b. point of shipment, for sales by the Ingersoll Steel and Disc Division of the Borg-Warner Corporation of Kalamazoo, Michigan, to Sears, Roebuck and Company and warm air furnace manufactur-

ers of the following items manufactured by it and as described in the application which is on file with the Building Materials Price Branch, Office of Price Administration, Washington 25, D. C., shall be:

Item	Maximum price (each)
Model No. 270-501212 and 601212—Blower assembly and housing.....	\$38.90
Model No. 270-501010 and 601010—Blower assembly and housing.....	36.00
Model No. 270-501212—Blower assembly.....	23.50
Model No. 270-501010—Blower assembly.....	21.75
Model No. 270-601212—Blower Housing.....	15.40
Model No. 270-601010—Blower Housing.....	14.25

(b) The maximum prices for sales by Sears, Roebuck and Company of the following items manufactured by the Ingersoll Steel and Disc Division of the Borg-Warner Corporation of Kalamazoo, Michigan, shall be:

Item	Retail store price	Mail order price
Model No. 270-501212 and 601212—Blower assembly and housing.....	Each \$65.50	Each \$58.95
Model No. 270-501010 and 601010—Blower assembly and housing.....	60.95	62.95

(c) The maximum prices established in (b) above shall be delivered prices in the case of retail store prices and f. o. b. Detroit, Michigan in the case of mail order prices.

(d) The maximum prices established by this order shall be subject to discounts and allowances including transportation allowances and price differentials and the rendition of services which are at least as favorable as those which each seller extended or rendered or would have extended or rendered to purchasers of the same class on comparable sales of commodities within the same general category during March 1942.

(e) Each seller covered by this order, except retailers, shall notify each of his purchasers, in writing, at or before the issuance of the first invoice after the effective date of this order, of the maximum prices established by this order for each such seller as well as the maximum prices established for purchasers upon resale.

(f) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2534; Filed, Feb. 14, 1946; 11:43 a. m.]

[RMPR 136, Order 580]

**COTTON GINNING MACHINERY, ACCESSORIES
AND REPAIR AND REPLACEMENT PARTS
ADJUSTMENT OF MAXIMUM PRICES**

For the reasons set forth in an opinion, issued simultaneously herewith and filed

with the Division of the Federal Register, and pursuant to section 30 of Revised Maximum Price Regulation 136, It is ordered:

(a) The maximum price for sales of any new cotton ginning machinery and and in which there has been a substantial equipment by any manufacturer shall be established as follows:

(1) For any cotton ginning machinery and equipment for which the manufacturer had a published list price in effect on October 1, 1941, or an established price in effect on the base date, the maximum price shall be the price computed under section 7 of Revised Maximum Price Regulation 136 increased by 13.4 percent of that price. For the purpose of this order the term "base date" shall mean October 1, 1941.

(2) For any cotton ginning machinery and equipment for which the manufacturer can compute a price under section 8 of Revised Maximum Price Regulation 136, the maximum price shall be computed under that section using the price computed under the preceding subparagraph (1) as the maximum price for the product before modification.

Section 8 has reference to the estab-

lishment of a maximum price for a product which either had a published list price or an established list price on the base date or a list price approved by OPA change in design, specifications or equipment. In using section 8, therefore, under the provisions of this paragraph, a manufacturer must first establish a price for the product under the preceding paragraph (a) and then establish the increase or decrease in that price on the basis of the modification in the manner provided in section 8.

(3) For any other cotton ginning machinery and equipment the maximum price shall be computed under sections 9 and 10 of Revised Maximum Price Regulation 136 without addition of the increases permitted by this order.

(b) For the purposes of this order the phrase "cotton ginning machinery and equipment" shall be taken to mean the following machinery, mechanical accessories (such as repair and replacement parts, interchangeable parts, jigs, fixtures, work holding and positioning devices and rests), and mechanical equipment when designed and sold exclusively for use with cotton ginning plants:

Bale Hoists.....	Used with one-story installations for lifting wrapped cotton bales from ground to wagon or truck.
Bins.....	For cotton and cottonseed, including supports.
Burr Machines, overhead	Used in preparation of roughly picked cotton.
Burr and Cleaning Machines	
Cleaners, cotton.....	Horizontal, inclined and vertical.
Cleaners and Driers, cottonseed	Including supports.
Collectors, Cyclone.....	
Condensers.....	Which are an integral and functional part of a cotton ginning machinery unit, vacuum and pressure types, single gin types and battery types. Also including supports for condensers when required; also the various types of dust discharges from condensers, and related parts.
Conveyors, screw.....	With troughs therefor, made of wood or steel, including the valves; openings and chutes used in handling cotton, cottonseed, hulls or refuse.
Cotton Feeders, Extractor Feeders and Blending Feeders.	Of all types and sizes manufactured by the industry.
Delinting Machines, cottonseed	Belts, screw and gyrator types, including component parts and accessories such as hoppers, supports, spouts and shields or overflow pens.
Distributors, cotton.	
Drag Belts.....	For handling cotton, cottonseed, hulls, refuse.
Driers, cotton.....	For drying cottonseed, before ginning. Component parts of such driers and varied types of heating units such as steam radiators, oil furnaces, gas or Butane heaters (with vaporizers if Butane).
Drying equipment, miscellaneous.	Piping, temperature gauges, filters.
Elevators.....	Bucket or screw types, for handling cottonseed or trash.
Elevators.....	Pneumatic with component parts such as automatic cut-off valves, fans, pipe, elbows, etc.
Feeders, vacuum.....	For cotton, cottonseed, hulls, refuse.
Gins, cotton.....	Plain or huller types, brush or airblast type, hand driven or power driven, and either saw or roller type. Also component parts of the foregoing.
Lint flues and lint flue systems.	For handling lint.
Pipe, suction and discharge....	For handling cotton, cottonseed, hulls or refuse; including elbows, valves, reducers, transitions, etc., for use with such pipe.
Presses.....	For baling cotton and linters to either gin density, or high density; hand driven, power driven (single and double box, up-packing and down-packing, of screw, hydraulic or steam power), including component parts if screw powered or hydraulic powered.
Pumps, hydraulic.....	Steam or mechanically driven, horizontal or vertical types, when made and sold exclusively for use in cotton ginning operations.
Repair and replacement parts...	For all machines, and accessories, included in this list, exclusive of saws and cutting blades, if any.
Scales, seed.....	For weighing cottonseed at the gin as ginned.
Separators.....	As used in pneumatic separation of cotton from the air.
Sterilizers, seed.....	

Telescopes	For handling cotton, cottonseed, hulls, refuse.
Toll chutes	For pneumatic cotton elevators.
Trampers	As used with cotton and linter baling presses, mechanical or steam operated.
Unloading units, seed cotton vacuum feeders.	For cotton, cottonseed, hulls, refuse.

Upon application by a manufacturer, OPA may include in this definition additional machinery or equipment if it appears to be specifically designed exclusively for use in cotton ginning operations.

(c) All prices established under paragraph (a) of this order shall be subject to the same discounts, credits and allowances in effect to any purchasers and classes of purchasers just prior to the issuance of this order.

(d) Notwithstanding any of the provisions of this order, a manufacturer of cotton ginning machinery and equipment may charge and collect the maximum prices for sales of his products which he had in effect just prior to the issuance of this order.

(e) This order may be amended or revoked at any time by the Price Administrator.

This order shall become effective February 15, 1946.

Issued this 15th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2588; Filed, Feb. 15, 1946;
11:42 a. m.]

[Max. Import Price Reg., Order 112]

NINA RICCI, INC.

ESTABLISHMENT OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to section 21 of the Maximum Import Regulation, it is ordered:

(a) *Purpose of this order.* This order establishes maximum prices at which the importer may sell, and maximum prices at which wholesalers and retailers may buy and sell certain perfume made in France and imported therefrom by Nina Ricci, Inc., 70 Pine Street, New York City, hereinafter called the importer. Each bottle is individually packaged, marked "Lalique-France" and identified by the scent "Coeur-Joie" and a showing of net contents.

(b) *Maximum prices on sales by the importer.* The maximum prices on sales by the importer to the following classes of purchasers for the following sizes of "Coeur-Joie" "Lalique-France" perfume shall be as follows:

Size	Maximum price to—		
	Wholesalers ¹	Retailers ¹	Consumers
¾-ounce.....	\$11	\$12	\$20
2-ounce.....	22	24	40
3-ounce.....	44	48	80

¹ Terms: 2 percent 10 days, net 30 days, transportation charges prepaid on shipments of \$50 or more.

(c) *Maximum wholesale and retail prices.* The maximum prices on sales by others than the importer to the following classes of purchasers for the following sizes of "Coeur-Joie" "Lalique-France" perfume, shall be as follows:

Size	Maximum price to—	
	Retailers ¹	To consumers
¾-ounce.....	\$12	\$20
2-ounce.....	24	40
3-ounce.....	48	80

¹ Terms: 2 percent 10 days, net 30 days, transportation charges prepaid on shipments of \$50 or more.

(d) *Notification of maximum prices.* The importer or other sellers selling for resale any size perfume priced under this order shall include on the invoice to each retailer, the following statement:

Your maximum selling price for the imported perfume as established by Order No. 112 issued by the Office of Price Administration under the Maximum Import Price Regulation is (insert the applicable price and size of perfume sold.)

(e) *Less than maximum prices.* Prices lower than those established by this order may be charged, demanded, paid or offered.

(f) *Revocation and amendment.* This Order may be revoked or amended at any time.

This order shall become effective February 15, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2521; Filed, Feb. 14, 1946;
11:42 a. m.]

[Rev. SO 119, Order 76]

A. J. LINDEMANN AND HOVERSON CO.

ADJUSTMENT OF CEILING PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to sections 15 and 16 of Revised Supplementary Order No. 119; It is ordered:

(a) The A. J. Lindemann and Hoverson Company, Milwaukee 7, Wisconsin, may increase by no more than 4.73 percent its ceiling prices to each class of purchaser for the electric cooking ranges of its manufacture.

(b) For sales in each zone by wholesale distributors to retail dealers the ceiling prices for the models of electric ranges manufactured by the A. J. Lindemann and Hoverson Company and listed below are as follows:

Model	Quantity	Ceiling prices for sales to retail dealers			
		Zone 1	Zone 2	Zone 3	Zone 4
		Each	Each	Each	Each
8800 B.....	1 to 4.....	\$69.99	\$71.70	\$73.11	\$74.64
	5 or more.....	67.48	69.13	70.48	71.95
8804 BX.....	1 to 4.....	88.06	89.75	91.19	92.87
	5 or more.....	84.91	86.53	87.91	89.53
8850 C.....	1 to 4.....	146.50	149.34	151.84	154.50
	5 or more.....	141.27	144.00	146.40	148.95
8810 B.....	1 to 4.....	100.88	102.75	103.85	106.19
	5 or more.....	97.29	99.09	100.14	102.39
8811 B.....	1 to 4.....	113.41	115.10	116.85	118.57
	5 or more.....	109.36	110.98	112.66	114.31
8808 B.....	1 to 4.....	155.44	157.44	159.19	161.06
	5 or more.....	149.88	151.80	153.48	155.28

If the wholesale distributor sells any of the above ranges equipped with any of the items of optional equipment listed below, he may add to the applicable ceiling price for the range shown in the above table an amount no greater than that set forth below opposite each item of optional equipment:

Optional equipment:	Amount which may be added
8E handy cooker.....	\$7.00
613 multi speed units.....	5.54
622-9 multi speed units.....	7.49
631 single coil multi speed unit.....	5.54
632-9 single coil multi speed unit.....	7.49
88 brass coll.....	8.44
S47 glass door—installed.....	3.88
S47 glass door—separate.....	9.45
Solid door—separate.....	4.90

These ceiling prices include the Federal excise tax and are subject to each seller's customary terms, discounts, allowances and other price differentials in effect on sales of similar articles.

(c) For sales in each zone by retail dealers to ultimate consumers the ceiling prices for the models of electric ranges manufactured by the A. J. Lindemann and Hoverson Company and listed below are as follows:

Model	Ceiling prices for sales to ultimate consumers			
	Zone 1	Zone 2	Zone 3	Zone 4
	Each	Each	Each	Each
8800 B.....	\$107.50	\$110.25	\$112.50	\$114.95
8804 BX.....	135.25	137.95	140.25	142.95
8850 C.....	224.95	229.50	233.50	237.75
8810 B.....	154.75	157.75	159.50	163.25
8811 B.....	174.25	176.95	179.75	182.50
8808 B.....	238.75	241.95	244.75	247.75

If a retail dealer sells any of the items of optional equipment listed below, he may add to the applicable ceiling price for the range shown in the above table, an amount no greater than that set forth below opposite each item of optional equipment:

Optional equipment:	Amount which may be added
8E handy cooker.....	\$10.75
613 multi speed units.....	8.50
622-9 multi speed units.....	11.50
631 single coil multi speed unit.....	8.50
632-9 single coil multi speed unit.....	11.50
88 brass coll.....	12.95
S47 glass door—installed.....	5.95
S47 glass door—separate.....	14.50
Solid door—separate.....	9.25

These prices include the Federal excise tax, delivery, a one year warranty and

installation with connection to electric facilities to be provided by the purchaser. If a range cord set (customarily referred to in the industry as a "pigtail") is required and is furnished by the retail dealer, he may add \$3.50 to the above OPA retail ceiling price. In all other respects these ceiling prices are subject to each seller's customary terms, discounts, allowances and other price differentials in effect on sales of similar articles.

(d) For purposes of this order Zones 1, 2, 3, and 4 comprise the following states:

Zone 1. Wisconsin, Illinois, Indiana, and Michigan.

Zone 2. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, North Carolina, South Carolina, Kentucky, Ohio, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Vermont, Massachusetts, Connecticut, Rhode Island, New Hampshire, and the District of Columbia.

Zone 3. Maine, Florida, Texas, New Mexico, Colorado, Wyoming, and Montana.

Zone 4. Washington, Oregon, Idaho, California, Nevada, Utah, and Arizona.

(e) At the time of, or prior to the first invoice to each purchaser for resale at wholesale the manufacturer shall notify him of the ceiling prices set by this order for resales by the purchaser. This notice may be given in any convenient form.

(f) The manufacturer prior to shipping any range covered by this order to a purchaser for resale shall attach securely to the outside panel of the oven door of each range a label which contains all the following information:

1. The model number of the range.
2. A list of all the items of optional equipment which it contains.
3. The range's OPA retail ceiling prices in each zone.
4. A list of the states included in each zone.
5. A statement that the ceiling prices shown include the Federal excise tax, delivery, a one year warranty and installation where the installation requires only that the range be connected to electric facilities to be provided by the purchaser and such connection does not require any additional materials.
6. A statement that if the installation requires the use of a range cord set (customarily referred to in the industry as a "pigtail") and such a set is furnished by the retail dealer, he may add \$3.50 to the OPA retail ceiling price of the range.

(g) The ceiling prices established by this order supersede those established by Order No. 193 under Maximum Price Regulation No. 64.

(h) This order may be revoked or amended by the Price Administrator at any time.

(i) This order shall become effective on the 14th day of February, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2547; Filed, Feb. 14, 1946;
4:14 p. m.]

[MPR 188, Order 7]

CERTAIN RECONVERSION PRODUCTS ADJUSTMENT OF CEILING PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to § 1499.159e of Maximum Price Regulation No. 188, It is ordered:

(a) The products covered by this order are reconversion products for which adjustments in ceiling prices have been found by the Administrator to be warranted in accordance with the reconversion pricing policy embodied in § 1499.159e of Maximum Price Regulation No. 188 (Amendment 67).

The products covered by this order are:
Metal Musical Instruments
Domestic Sewing Machines

Domestic Mechanical Refrigerator Cabinets

(b) Orders may be issued under this order which will establish an individual manufacturer's ceiling prices which are calculated and determined in accordance with the provisions of Supplementary Order No. 119, as amended or revised, except that in determining such ceiling prices the profit factor used shall be equal to the manufacturer's average net profit margin (before income taxes) for the period 1936-1939, or one-half the average industry profit margin for that period, whichever is higher.

In determining any ceiling price herein authorized, the Administrator will act pursuant to an application by the manufacturer which provides all of the cost information called for on OPA Form 2488-B and the instructions accompanying that form.

(c) Orders issued under this order may establish resellers' ceiling prices in accordance with the announced policy of the Office of Price Administration respecting absorption at distributive levels of reconversion increases permitted to a particular industry.

No increase in reseller's ceiling prices may be made as a result of increases permitted under this order unless the increase is specifically authorized. Such an increase will be authorized for particular classes of resellers when it appears that the absorption by such resellers of all or part of increases in manufacturers' prices will not be in accord with the absorption policy of the Office of Price Administration.

(d) For purposes of this order the Price Administrator has determined that half the industry average profit margin for the period 1936-1939 of the industries listed below are as follows:

Half the industry average profit margin (per cent)	
Industry:	
Metal musical instruments.....	3.1
Domestic sewing machines.....	10.86
Domestic mechanical refrigerator cabinets.....	5.41

(e) As a condition of allowing any increase in prices under this order, the Price Administrator may require the manufacturer to arrange the production and distribution of his product so that they will be representative of his production and distribution during 1941. The Administrator may also require that any price increases allowed the manufacturer be applied among models in a manner

consistent with the need, under the stabilization program, to maintain the production of lower priced products.

(f) The provisions of this order supersede the provisions of Maximum Price Regulation No. 188 only to the extent that they are inconsistent with the provisions of that regulation.

(g) Ceiling prices may be fixed under this order for manufacturers eligible to apply for an adjustment under Supplementary Orders 118 or 119.

This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective on February 14, 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2545; Filed, Feb. 14, 1946;
4:14 p. m.]

[MPR 64, Order 259]

GENERAL MOTORS CORP.

APPROVAL OF CEILING PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to sections 11 and 12 of Maximum Price Regulation No. 64, It is ordered:

(a) This order establishes ceiling prices for sales of the models AI-6, BI-17, BI-17C, BI-60, and BI-70 of electric ranges manufactured by the Frigidaire Division, General Motors Corporation, Dayton, Ohio, and shipped by it on or after February 11, 1946.

(1) For sales by wholesale distributors to retail dealers the ceiling prices, including the Federal excise tax are as follows:

Ceiling price for sales to retail dealers (each)	
Model:	
AI-6.....	\$82.43
BI-17.....	121.18
BI-17C.....	133.00
BI-60.....	160.66
BI-70.....	200.44

These ceiling prices are to retail dealers who provide delivery, installation and all the services necessary in connections with the sale. They are freight prepaid and are subject to each seller's customary terms, discounts, allowances and other price differentials in effect on sales of similar articles.

(2) For sales by retail dealers to ultimate consumers the ceiling prices, including the Federal excise tax are as follows:

Ceiling price to ultimate consumers (each)	
Model:	
AI-6.....	\$118.50
BI-17.....	180.50
BI-17C.....	198.50
BI-60.....	240.00
BI-70.....	299.50

These ceiling prices include delivery, a one-year warranty, and installation where the installation requires only that the range to be connected to electric facilities to be provided by the consumer and such connection does not require any additional materials. If a range cord set (customarily referred to in the industry as a "pigtail") is required and is furnished by the retail dealer, he may add

\$3.50 to the applicable OPA retail ceiling price shown above. In all other respects these ceiling prices are subject to each seller's customary terms, discounts, allowances and other price differentials in effect on sales of similar articles.

(b) At the time of, or prior to the first invoice to each purchaser for resale at wholesale after the effective date of this order the manufacturer shall notify him of the ceiling prices and conditions established by this order for resales by the purchaser. This notice may be given in any convenient form.

(c) The manufacturer shall cause to be attached to the outside oven door panel of each range, prior to its shipment to a retail dealer, a label which contains all the following information:

1. The name of the manufacturer.
2. The model number of the range.
3. Its OPA retail ceiling price.
4. A statement that the ceiling price shown includes the Federal excise tax, delivery, a one-year warranty and installation where the installation requires only that the range be connected to the electric facilities provided by the purchaser and such connection does not require any additional materials.
5. A statement that if the installation requires the use of a range cord set (customarily referred to in the industry as a "pig-tail") and such a set is furnished by the retail dealer, he may add \$3.50 to the OPA retail ceiling price of the range.

(d) The ceiling prices established by this order supersede those established by Orders 175 and 199 under Maximum Price Regulation No. 64, with respect to the articles covered by this order.

(e) This order may be revoked or amended by the Price Administrator at any time.

(f) This order shall become effective on the 15th day of February 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2522; Filed, Feb. 14, 1946;
11:42 a. m.]

[MPR 188, Order 1 Under Order 7]

WHITE SEWING MACHINE CORP.

ADJUSTMENT OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to Order No. 7 under § 1499.159a of Maximum Price Regulation No. 188, it is ordered:

(a) *Purpose of this order.* This order specifies a price increase factor by which the White Sewing Machine Corporation, 1231 Main Avenue, Cleveland 1, Ohio, may increase its ceiling prices for sales to persons other than ultimate consumers of the domestic sewing machines which it manufactures. It also specifies how wholesalers and retailers who resell those machines shall determine their ceiling prices for such resales.

(b) *Manufacturer's ceiling prices.* The White Sewing Machine Corporation shall increase its ceiling prices for sales of the domestic sewing machines it manufactures to persons other than consumers by 15.5 percent.

(c) *Ceiling prices of purchasers for resale at wholesale.* A purchaser for resale at wholesale of any domestic sewing machines manufactured by the White Sewing Machine Corporation shall determine his ceiling prices for resales to purchasers for resale by the first applicable method of the following:

Method 1. For sale to each class of purchaser, he shall determine the price which will yield him the same percentage of the total dollar margin between the manufacturer's price to him and the retailer's ceiling price for sales to ultimate consumers as he received during March 1942 in connection with the sale of the most comparable model to the same class of purchaser.

Method 2. If a purchaser for resale at wholesale cannot determine his ceiling price for sales of a particular model to a particular class of purchaser under Method 1, his ceiling price for that sale is the ceiling price established under this section for the sale by his "closest seller of the same class." The "closest seller of the same class" of a purchaser for resale at wholesale is a seller who (a) has a ceiling price established for sales of the identical model to the same class of purchaser, and (b) is the same general class of seller, and (c) is located nearer to the seller than any other seller who meets the requirements of both (a) and (b) of this method.

Method 3. If a purchaser for resale at wholesale cannot determine his ceiling price for a particular sale by either of the above methods, he shall apply to the Office of Price Administration for the establishment of his ceiling price for that sale under Section 1499.3 (c) of the General Maximum Price Regulation. Ceiling prices so established will reflect margins in line with those received by purchasers for resale at wholesale who have established their ceiling prices under the provisions of this section.

(d) *Ceiling prices for sales to consumers—(1) Standard brands.* The ceiling prices for all sales to consumers in each zone of the domestic sewing machines manufactured by the White Sewing Machine Corporation and sold under the manufacturer's brand name are as follows:

Model	Cabinet finish	Ceiling prices for sales to consumers	
		Zone I	Zone II
107-77	Walnut and bench	\$179.50	\$184.50
	Walnut	160.00	165.00
	Mahogany and bench	172.50	177.50
71-77	Walnut	147.00	152.00
9-77	Mahogany	152.00	157.00
	Walnut	147.00	152.00
97-77	do	142.00	147.00
117-77	Maple	134.00	139.00
19-77	Portable	109.50	114.50
17-77	Walnut	172.00	177.00
	Mahogany	177.00	182.00
	Bleached	184.00	189.00
	Walnut and bench	179.50	184.50
	Mahogany and bench	184.50	189.50
	Bleached and bench	191.50	196.50
123-77	Walnut	147.00	152.00
	Mahogany	152.00	157.00
109-77	Walnut	119.50	124.50
15-43	Mahogany	129.50	134.50
55-43	Walnut	124.50	129.50
45-43	do	114.50	119.50
35-43	do	114.50	119.50
15-43	do	124.50	129.50

Model	Cabinet finish	Ceiling prices for sales to consumers	
		Zone I	Zone II
35-43	Mahogany	\$119.50	\$122.50
115-43	Maple	109.50	112.50
19-43	Portable	82.50	85.00
49-43	Walnut	114.50	117.50
67-41 or 67-43	do	114.50	117.50
27-43	do	104.50	107.50
	Mahogany	109.50	112.50
43-41 or 43-43	Walnut	104.50	107.50
33-41 or 33-43	do	99.50	102.50
3-41 or 3-43	do	99.50	102.50
21-41 or 21-43	do	94.50	97.50
41-41 or 41-43	do	75.00	77.50
109-41 or 109-43	do	95.00	98.00
7-41	do	99.50	102.50
39-41	do	114.50	117.50
13-41	do	94.50	97.50
29-41	do	104.50	107.50
113-135	do	90.00	92.50
43-49	do	99.50	102.50
65-49	do	99.50	102.50
7-49	do	94.50	97.50
29-49	do	94.50	97.50
69-49	do	94.50	97.50
67-125 or 67-127	do	88.50	88.50
3-125 or 3-127	do	72.50	72.50
33-127	do	69.95	69.95
7-127	do	69.95	69.95
13-125 or 13-127	do	59.95	59.95
41-127	Portable	49.50	49.50
69-127	Walnut	88.50	88.50
29-127	do	69.95	69.95
21-127	do	69.95	69.95
19-127	Portable	49.50	49.50
109-127	Walnut	74.50	74.50
40-8	do	57.50	57.50
44-8	do	49.95	49.95
14-8	do	48.85	48.85
12-8	do	39.95	39.95
32-8	do	34.95	34.95
30-8	do	57.50	57.50
8-8	do	57.50	57.50
53-8	do	57.50	57.50
61-8	do	69.50	69.50
14-2	do	38.85	38.85
12-2	do	33.00	33.00
32-2	do	29.95	29.95
44-2	do	44.50	44.50
53-2	do	55.00	55.00
30-2	do	49.95	49.95
787-153	do	160.00	165.00
711-153	do	145.00	150.00
739-153	do	139.00	144.00
117-153	Maple	134.00	139.00
719-153	Portable	109.50	114.50
717-151	Walnut	124.50	127.50
	Mahogany	129.50	132.50
	Walnut	124.50	127.50
709-151 or 709-107	do	114.50	117.50
739-151	Maple	109.50	112.50
115-151	Walnut	104.50	107.50
723-151	Mahogany	109.50	112.50
705-151	Walnut	104.50	107.50
707-107 or 707-151	do	99.50	102.50
703-107	do	92.50	95.00
741-107	Portable	72.50	75.00
713-147	Walnut	90.00	92.50
19-147	Portable	72.50	75.00
67-125 or 67-127	Walnut	88.50	88.50
707-127 or 707-127	Maple	72.50	72.50
701-125 or 701-127	Walnut	59.95	59.95
741-127	Portable	49.50	49.50
703-127	Walnut	67.50	67.50
705-127	do	79.50	79.50
702-6	do	57.50	57.50
44-6	do	49.95	49.95
700-2	do	33.00	33.00
32-2	do	29.95	29.95
30-6	do	57.50	57.50

For purposes of this subparagraph Zones I and II consist of the following states:

Zone I. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Ohio, Pennsylvania, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Kentucky, West Virginia, Delaware, Virginia, Maryland, Tennessee, North Carolina and the District of Columbia.

Zone II. South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, New

Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Nevada, Arizona, California, Oregon and Washington.

(2) *Private brands.* A retail seller's ceiling prices for sales to consumers of domestic sewing machines manufactured by the White Sewing Machine Corporation for sale under the retail seller's private brand name shall be the ceiling price properly established for the same machine by the retail seller under § 1499.2 of the General Maximum Price Regulation.

If the seller cannot determine his ceiling price under § 1499.2 of the General Maximum Price Regulation he shall apply to the Office of Price Administration for the establishment of his ceiling prices under § 1499.3 (c) of the General Maximum Price Regulation. Ceiling prices established under that section will reflect margins in line with those received by purchasers for resale at retail who have established their ceiling prices under the provisions of this paragraph.

(e) *Terms and conditions of sale.* Ceiling prices established under this order are subject to each seller's terms, discounts, allowances and other price differentials on sales to each class of purchaser in effect during March 1942, or thereafter properly established under OPA regulations.

(f) *Notification.* At the time of, or prior to the first invoice to a purchaser for resale showing a ceiling price established in accordance with the terms of this order, the seller shall notify the purchaser in writing of the method established in the applicable section of this order for the purchaser to determine ceiling prices for his resales.

(g) *Labeling.* (1) The manufacturer, prior to shipping to a purchaser for resale any of the sewing machines for which a specific dollar-and-cents retail ceiling price is established by this order, shall attach to each machine a tag or label which plainly states the model number of the machine, its OPA retail ceiling price in each zone and the states included in each zone. The tag or label shall also contain a statement that the tag or label may not be removed until after the machine is sold to a consumer.

(2) On and after the effective date of this order no person may sell at retail any machine covered by this order unless there is attached to the machine a tag or label containing the OPA retail ceiling price for sales of the sewing machine by the retail seller.

(h) *Sales invoices.* Every person other than a seller by mail order who on or after February 14, 1946, sells a sewing machine covered by this order shall furnish every purchaser with an invoice showing the date of sale, the name and address of both the buyer and seller, the model number of each sewing machine he sold, the price charged, the quantity of each model sold, the terms of sale, and the nature and amount of any additional charges. Every seller must keep a copy of every sales invoice available for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect.

(i) *Revocation or amendment.* This order may be revoked or amended by the Price Administrator at any time.

(j) *Effective date.* This order shall become effective on the 14th day of February 1946.

Issued this 14th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2546; Filed, Feb. 14, 1946;
4:13 p. m.]

[MPR 478, Amdt. 1 to Order 157]

OILCLOTH

AUTHORIZATION OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to section 15a of Maximum Price Regulation 478, It is ordered:

Paragraph (b) of Order No. 157 under Maximum Price Regulation 478 is amended to read as follows:

(b) *Wholesalers ceiling prices.* Wholesalers of oilcloth may increase by 9.1 percent their prices for sales of all oilcloth, other than wall oilcloth, in effect on March 1, 1942, to each class of purchaser for those items for which the manufacturer has increased his prices as permitted by this order. Wholesalers whose March 1, 1942, price to a particular class of purchaser was less than 6 percent higher than the highest list price for such oilcloth sold to the identical class of purchaser by the manufacturer of the oilcloth during October 1941 may increase their March 1, 1942, price not to exceed the manufacturer's ceiling price to that class of purchaser as determined under paragraph (a) above.

This order shall become effective February 16, 1946.

Issued this 15th day of February 1946.

JAMES G. ROGERS, Jr.,
Acting Administrator.

[F. R. Doc. 46-2596; Filed, Feb. 15, 1946;
11:44 a. m.]

Regional and District Office Orders.

[Region II Order G-13 Under SR 15 and MPR 280]

FLUID CREAM IN NEW YORK CITY AND NASSAU, SUFFOLK, ROCKLAND AND WESTCHESTER COUNTIES, N. Y.

For the reasons set forth in an opinion issued simultaneously herewith, and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9b) of Supplementary Regulation No. 15 to the General Maximum Price Regulation, and by § 1351.806c of Maximum Price Regulation No. 280, pursuant to written authorization from the Price Administrator, and with the approval of the Director, Dairy Branch Production and Marketing Administration, United States Department of Agriculture, it is ordered:

SECTION 1. *Maximum prices for sales of fluid cream—(a) At retail and wholesale in glass or paper containers.* The maximum price for the sale and delivery

of fluid cream (as defined in section 6) at retail and at wholesale in glass or paper containers, delivered to stores, hotels, restaurants and institutions in the City of New York and in the counties of Nassau, Suffolk, Rockland and Westchester shall be the higher of the following:

(1) The seller's maximum price as determined under the General Maximum Price Regulation, as adjusted by Amendment No. 77 to Supplementary Regulation 14 (now 14A) to the General Maximum Price Regulation; or,

(2) The applicable adjusted maximum price for the particular size and type of container and type of sale set forth in section 2 below.

(b) *At wholesale in bulk.* The maximum price for the sale and delivery of fluid cream at wholesale in bulk delivered to stores, hotels, restaurants and institutions in the City of New York and in the counties of Nassau, Suffolk, Rockland and Westchester shall be the higher of the following:

(1) The seller's maximum price as determined under Maximum Price Regulation 280 as adjusted under Amendment 22 thereof; or

(2) The adjusted maximum price for the particular size and type of container set forth in section 2 below.

SEC. 2. *Minimum-maximum prices for sales of fluid cream in the City of New York and in Nassau, Suffolk, Rockland and Westchester Counties—(a) Adjusted maximum prices.*

18 PERCENT CREAM

	At retail—delivered to the home	At wholesale—delivered to stores, hotels, restaurants and institutions		
		Glass	Glass	Paper Bulk
1½ pints.....	\$0.145	\$0.13	\$0.13	-----
Pints.....	.240	.235	.235	-----
Quarts.....	.45	.44	.44	-----
Bulk, per quart.....	-----	-----	-----	\$0.415

36 PERCENT CREAM

		\$0.225	\$0.21	\$0.21
1½ pints.....		.405	.395	.395
Pints.....		.775	.765	.765
Quarts.....				
Bulk, per quart.....				\$0.735

(b) *Adjustments where butterfat content is other than 18% or 36%.* A seller shall adjust his maximum price determined under section 2 (a) above, for fluid cream having a butterfat content other than 18% or 36%, with proportionate adjustments for any unit size, as follows:

Butterfat Content and Adjustment To Be Made by Seller

- (1) 16% but less than 18%:
Deduct 7¢ per gallon from 18% price for each percentage point of butterfat below 18%.
- (2) More than 18% but less than 28%:
Add 7¢ per gallon to 18% price for each percentage point of butterfat above 18%.
- (3) 28% but less than 36%:
Deduct 7¢ per gallon from 36% price for each percentage point of butterfat below 36%.
- (4) More than 36% but less than 41%:
Add 7¢ per gallon to 36% price for each percentage point of butterfat above 36%.

SEC. 3. Where a distributor's established maximum price is increased. Where a distributor's established maximum price is increased under the provisions of this order, any seller purchasing from that distributor may add to his established maximum price only the increase added by the distributor. Any subsequent seller, other than a distributor, may add to his established maximum price only the increase added by his supplier.

This provision applies only to sales at retail and at wholesale in bulk or in glass or paper containers to stores, hotels, restaurants and institutions. It is not intended to apply to sales at wholesale to any person other than stores, hotels, restaurants and institutions.

SEC. 4. Notification to buyers of new maximum prices. With the first delivery of any product covered by this regulation for which a maximum price has been adjusted under this order, the seller shall supply each wholesaler and retailer, who purchased from him, with a written notice in the following form:

(Insert date)

Our OPA ceiling price for (describe product by name, percentages of butterfat and container size) has been adjusted by the Office of Price Administration. We are required to inform you that our price has been adjusted ----- cents (per container size). The seller shall supply the written notice set forth above by attaching it to, or stating it in the invoice covering the shipment for a period of 30 days after his maximum price has been adjusted, and with the first shipment after the 30 day period to each person who has not made a purchase within that time.

SEC. 5. Calculations. In determining the maximum prices established in this order, all calculations shall be carried to the fourth decimal place of a cent. Any final calculation of the maximum price for any unit size resulting in a fraction of a cent shall be adjusted to the nearest half cent.

SEC. 6. Definitions. (a) When used in this order, the term:

(1) "Fluid cream" means the fatty liquid or semi-liquid, irrespective of whether it is raw, pasteurized, or homogenized, separated from fresh liquid cow's milk, with or without the addition thereto and the mixing therewith of milk or skimmed milk. It shall contain not less than 18% butterfat, and is resold for consumption in fluid form. It shall not include sour cream, nor is it classed as evaporated or condensed milk.

(2) "The city of New York" means the Boroughs of Manhattan, Brooklyn, Bronx, Queens and Richmond.

(3) "Established maximum price" as increased under section 3, means the seller's maximum price as established under the GMPR or MPR 280, as adjusted by Amendment No. 77 to SR 14A or Amendment 22 to MPR 280, respectively. *Provided:* That any calculation of "established maximum price" resulting in a fraction of a cent shall not be adjusted to the nearest half or full cent. Any final calculation of maximum prices under this order shall be adjusted pursuant to section 5 hereof.

(4) "In bulk" means contained in other than glass or paper containers.

This order is subject to revocation or amendment by the Regional Administrator at any time hereafter, either by special order, by price regulation issued hereafter, or by supplementary order which may be contrary thereto.

This order shall become effective February 13, 1946.

Issued this 13th day of February 1946.
(56 Stat. 23, 765, 57 Stat. 566, Pub. Law 383, 78th Cong., Pub. Law 108, 79th Cong., E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681, E.O. 9599, 10 F.R. 10155)

LEO F. GENTNER,
Regional Administrator.

Approved: February 7, 1946.

H. L. FOREST,
Acting Director, Dairy Branch,
Production and Marketing
Administration, United States
Department of Agriculture.

[F. R. Doc. 46-2500; Filed, Feb. 13, 1946;
4:29 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 811-78]

CENTRAL NATIONAL CORP.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 13th day of February, A. D. 1946.

Central National Corporation, a registered investment company having filed an application pursuant to section 8 (f) of the Investment Company Act of 1940 for an order of the Commission declaring it has ceased to be an investment company within the meaning of the act;

It is ordered, Pursuant to section 40 (a) of the said act that a hearing on the aforementioned application be held on February 25, 1946 at 10:00 a. m. Eastern Standard Time in Room 318, Securities and Exchange Commission Building, 18th and Locust Streets, Philadelphia 3, Pennsylvania; and

It is further ordered, That Henry C. Lank or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's rules of practice.

Notice of such hearing is hereby given to Central National Corporation and to any other persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 46-2537; Filed, Feb. 14, 1946;
2:07 p. m.]

[File No. 50-17]

UNITED CORP.

ORDER GRANTING EXEMPTION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 14th day of February 1946.

The Commission by order dated December 27, 1945, (Holding Company Act Release No. 6337) having granted the application of The United Corporation, a registered holding company, filed pursuant to Rule U-100 promulgated under the Public Utility Holding Company Act of 1935 for exemption from the requirements of Rule U-44, promulgated under the act, with respect to the sale by The United Corporation on the New York Stock Exchange of not more than 200,000 shares of common stock of Columbia Gas & Electric Corporation; and

The United Corporation having notified the Commission as required by the order of December 27, 1945, that it had sold 200,000 shares of the common stock of Columbia Gas & Electric Corporation on the New York Stock Exchange from January 2, 1946, to January 28, 1946;

The United Corporation having filed a further application pursuant to Rule U-100 for exemption from the requirements of Rule U-44 with respect to the sale by The United Corporation on the New York Stock Exchange, during a three-month period commencing three days after the date of this order, of not more than 200,000 shares of common stock of Columbia Gas & Electric Corporation out of a total of 2,210,856 shares of such common stock now held by The United Corporation; and

The United Corporation having in its application represented that it will submit to the Commission weekly reports, in such form as the Commission may prescribe, on sales made under the granted exemption; and

It appearing to the Commission that the requirements of Rule U-44, as applied to the proposed transactions, are not necessary or appropriate in the public interest or for the protection of investors or consumers;

It is ordered, Pursuant to said Rule U-100, that the application be, and hereby is, granted forthwith, without prejudice, however, to the withdrawal of the exemption afforded hereby upon notification thereof and subject to the submission by The United Corporation of weekly reports setting forth, with respect to each transaction, the number of shares sold, date of sale, price received, and name of broker effecting transaction.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 46-2584; Filed, Feb. 15, 1946;
11:45 a. m.]

